

(1.)
F A C T S

OPPOSED TO

F A L S E H O O D,

IN THE PRIZE CAUSE

CLARISSA,

SUPPLY SIMMONDS, MASTER ;

TAKEN BY

THE DAPHNE LETTER OF MARQUE,

OF ALDBOROUGH,

THOMAS ABBOTT, COMMANDER.

London :

PRINTED BY BUNNEY AND GOLD,

SHOE-LANE, FLEET-STREET.

FACTS

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FALSEHOOD.

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SUPPLY SIMMONDS, MASTER;

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OF ALDERBROUGH.

THOMAS ABBOTT, COMMANDER.

LONDON:

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10, FINE LANE, LONDON.



IN the Practice of a Court so highly respectable, and where Property is decided upon to the enormous Amount as in the Court of Admiralty, the present Case demonstrates the Necessity of some additional Guard against the Effects of complicated Perjury and Forgery.—The utmost Care should be used in scrutinizing the Validity of the Securities offered for Letters of Marque, and some Mode laid down, by which (in case of Misconduct) the Penalty of the Bonds could be recovered *immediately* against the Sureties, without the Quirks and Evasions of a tedious Law Process. Where Power so extensive is delegated, great Precaution is essential, to have some prompt Controul over those to whom it is entrusted.—A mistaken Policy it is, to hazard Reproach against the British Flag, in permitting it to be hoisted by a Class of Vessels, too insignificant to annoy the Enemy, and whose Owners are embarked in, and want to protect no Trade, but

a clandestine one ; whose best Achievements are little superior to licensed Piracy upon the Property of Foreign Nations, whilst under legal Sanction they are hourly plundering the Revenues of their own Country.



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*AN Account of the Transactions of the Captain
and Owners of THE DAPHNE Privateer of
Aldborough, THOMAS ABBOTT Commander,
respecting the Capture, &c. of the Ship CLA-
RISSA, SUPPLY SIMMONDS Master, and of the
subsequent Proceedings before the Most Noble and
Right Honourable the Lords Commissioners of
Appeals in Prize Causes.*

GEORGE GOSTLING, Esq. His Majesty's
Procurator-General in his Office of
ADMIRALTY, the Claimant of One
Fourth Part of the said Ship, the Mas-
ter's pretended Private Adventure, and
the Goods, Wares and Merchandizes
laden therein, } Appellant.

AGAINST

THOMAS ABBOTT, Commander of the
Ship or Vessel THE DAPHNE, and the
Owners, Officers and Crew of the said
Ship Daphne, } Respondents.

SOMETIME in November 1796, information
was given to the Lords of the Admiralty of
the illegal practices of The Daphne, accompanied
with the opinion of an eminent Counsel upon the
forfeitures and penalties incurred by such illegal

conduct. In February 1797 the papers were ordered to be sent to the Admiralty Proctor, and the claim on behalf of the Crown was instituted, and security for its prosecution given, by Charles Bicknell, Esq. Solicitor to the Admiralty, on the 9th of March 1797; and the following affidavits were exhibited by Gostling, on applying to their Lordships for leave to prosecute appeal.

Affidavit of Robert Thatcher, one of the crew of the Daphne. Sworn 29th May, 1797.

ROBERT THATCHER, of Woodbridge, in the county of Suffolk, mariner, maketh oath, and saith, that the vessel called The Daphne, of Aldborough, in the county of Suffolk, commanded by Thomas Abbott, was a letter of marque or privateer; and this deponent further saith, that he was engaged by Thomas Abbott, of Woodbridge, captain of the Daphne, letter of marque, and George Cullum, of Orford, in the county of Suffolk, farmer, one of the owners of the said Daphne, letter of marque, to go as a sailor on board the said vessel, and that he belonged to the Daphne, and sailed in her from the time of the Daphne being commissioned as a privateer; and that sometime in the month of October 1795, the captain and crew of the Daphne attended at the house of George Cullum, at Orford, in the county of Suffolk, a part owner of the said ship called the Daphne, and signed certain articles which were then produced by Phineas Ja-



cobs, of Norwich, tobaccoist, another part owner of the *Daphne*; and this deponent further saith, that the persons whose names are hereafter inserted, were those that were the crew of the *Daphne*, and were at the said George Cullum's, and who, all but one, signed the afore-mentioned articles: Captain Thomas Abbott; Robert Thatcher; Robert Nunn; William Joyce; John Lafs, alias Great Jack, who refused to sign the articles at Cullum's; Johannes Johnson; Thomas Coppin; Peter Greenland, a boy: and this deponent further saith, that the *Clarissa* was taken by the *Daphne* on the 12th of January 1796; and this deponent further saith, that the *Daphne*'s crew were never mustered at Aldborough, or elsewhere, previous to the *Daphne*'s capturing of the said vessel called the *Clarissa*; and this deponent further saith, that at the time the *Daphne* took the *Clarissa*, her crew consisted of the afore-mentioned persons, who were the whole of the crew of the *Daphne* when she sailed from Orford, being the captain, six men, and a boy; of which number two were sick; one of whom, Thomas Coppin, had the small-pox; and that the *Daphne* had on board only six carriage guns, and no swivels, when the *Daphne* took the *Clarissa*; and this deponent further saith, that the *Daphne* had on board, when she captured the *Clarissa*, Samuel Davis, and — Pleyer, chief and second mate of an American vessel, who had come on board the *Daphne* as passengers from Hamburgh to England;

and this deponent further saith, that there was on board the Daphne, when she captured the Clarissa, a large quantity of tobacco, tobacco sand, and snuff, for the purpose of being clandestinely imported into Great Britain; and this deponent further saith, that the said tobacco, tobacco sand, and snuff, were landed from the Daphne at Ramsholt Dock, in Woodbridge Haven, in the night of the 16th of January 1796; and this deponent further saith, that on the 19th of September 1796, the Daphne captured two Dutch doggers*, called De Jonge Neelke, and De Veenrught; and at the time when the Daphne captured the said doggers, the crew of the Daphne consisted of the following persons: Rowel Dibney, captain; Robert Thatcher, mate; William Johncock, prizemaster; John Turtle, boatswain; David Murrell, gunner; Jonathan Cook, cook; Jeremiah Barber, seaman; John Cooper, ditto; Henry Pade, ditto; John King, ditto; Francis Turner, ditto; Thomas Smith, a boy: and this deponent further saith, that the above-mentioned twelve persons were the whole of the crew of the Daphne when she sailed from Orford.

ROBERT THATCHER.

* The two doggers were condemned as droits of Admiralty, in consequence of the Daphne being non-commissioned at the time of capturing them.

Affidavit of Christian Gasman, one of the crew of the Clarissa. Sworn 6th June, 1797.

CHRISTIAN GASMAN, of Bermondsey, in the county of Surrey, mariner, maketh oath and faith, that he was a sailer on board the Clarissa, merchant ship, Captain Supply Simmonds, bound from Surinam to Amsterdam; and this deponent further faith, that on the 12th day of January 1796, the Clarissa was taken off the Texel by the Daphne privateer, Captain Thomas Abbott; and this deponent further faith, that he, together with Alexander Macleod, and John Roberts, were put on board the Daphne, and — Pleyer, — Davis, William Joyce, and Robert Nunn, were put on board the Clarissa, to take her into port; and this deponent further faith, that the Daphne had six carriage guns, and no swivels, and that the crew on board the Daphne consisted of Thomas Abbott, captain; John Laff, alias Great Jack; Robert Thatcher; Johannes Johnson; Thomas Coppin; Peter, a boy; which, together with this deponent, Alexander Macleod, and John Roberts, made nine persons; and this deponent further faith, that the Daphne proceeded to Woodbridge Haven, where the Daphne arrived upon the 16th day of January 1796; and this deponent further faith, that the Daphne had on board, at the time when the Daphne took the Clarissa, many bales and bags of tobacco, and tobacco sand, and which said bales and bags of

tobacco, and tobacco sand, were unloaded and put on shore at Ramsholt Dock, in Woodbridge Haven, in the night of the said 16th day of January 1796.

CHRISTIAN GASMAN.

Letter from George Gostling, Esq. to James Hefeltine, Esq. dated 30th August 1797.

Doctors-Commons, 30th August, 1797.

Clarissa, SUPPLY SIMMONDS, master, taken by the ship *Daphne*, THOMAS ABBOTT, Commander.

SIR,

Herewith you receive copies of two affidavits made by Robert Thatcher and Christian Gasman, and you will be pleased to take notice, that I intend, at the next sitting of the Lords, to intervene in the said cause, and, by my counsel, move their Lordships for leave to prosecute an appeal from the decree of the High Court of Admiralty, condemning one-fourth of the said ship, and the goods, wares, and merchandizes laden therein, as prize to the said Thomas Abbott, commander of the private ship of war the *Daphne*, and to decree an inhibition, citation, and monition, to shew cause why the decree should not be reversed, and the said one-fourth of the ship, and the goods, wares, and merchandizes laden therein, condemned as prize to our sovereign lord the King in his office of Admiralty, as droits and perquisites thereof, as

set forth in the claim then intended to be given in
by me, a copy whereof you also herewith receive.

I am, Sir,

Your most humble servant,

James Hefeltine, Esq. *GEO. GOSTLING.*

The following affidavits, which were given to the
Admiralty Proctor, explain the attempts made to
smother the evidence, if possible, at the outset.

CHRISTIAN GASMAN, of *Bermondsey*, in the
county of Surrey, mariner, maketh oath and faith,
that on Sunday the 25th of June instant, Phineas
Jacobs, of Norwich, tobacconist, and Charles
Maitland, of Tower-hill, London, merchant, came
to him, this deponent, when the said Charles
Maitland said to this deponent, he had better
make the matter up, respecting an affidavit which
this deponent had made about the capture of the
ship *Clarissa*, which this deponent refused to com-
ply with; and this deponent further saith, that the
said Phineas Jacobs then took him out of the
room, and offered to pay this deponent the whole
money due to him, as his share of the prize-money
for the *Clarissa*, taken by the *Daphne* privateer, of
which the said Phineas Jacobs was a part owner,
and which said prize-money had been repeatedly
claimed by this deponent, and refused to be paid
to him by the said Phineas Jacobs; and this de-

ponent further saith, that the said Phineas Jacobs (after this deponent had refused to comply with the matter as mentioned by the said Charles Maitland) offered to pay this deponent's prize-money, and to give what further sum of money this deponent would say would satisfy him, upon condition that this deponent would withhold any evidence which he could give respecting the capture of the *Clarissa*, and the subsequent proceedings of the *Daphne* privateer.

CHRISTIAN GASMAN.

Sworn at the Mansion-house,

London, the 28th June,

1797, before me,

JOHN BOYDELL, *Ald. and J. P.*

ROBERT THATCHER, late of *Woodbridge*, in the county of *Suffolk*, mariner, maketh oath and saith, that about six o'clock in the morning of the 25th June instant, Henry Major of East Place, Saint George's Fields, in the county of *Surrey*, mariner, came to the lodgings of this deponent at No. 2, Brook Street, Lambeth, and called him out of bed, declaring that he had something material to relate to this deponent; that he, this deponent, accordingly got up, when the said Henry Major told this deponent, that he was sent by Phineas Jacobs, of *Norwich*, tobacconist, late a part owner of the *Daphne* privateer, Captain Thomas Abbott, of *Aldborough*, to offer this deponent the sum of

fifty pounds, upon condition that he would make an affidavit, stating, that the reason why this deponent had made an affidavit respecting the Daphne's capturing the Clarissa, was for the consideration of a bribe which he was to receive, and that, after having made such affidavit, this deponent was to go to Mr. William Wenham, late of Hastings, in the first vessel that sailed to Flushing, he, the said William Wenham, being concerned in the prize-money of the Clarissa; and this deponent further saith, that the said Henry Major declared, as a further inducement for this deponent making such affidavit, that the said Phineas Jacobs would purchase a cutter of about 90 or 100 tons burthen, for the purpose of landing contraband goods on the coast of Norfolk, and on board which cutter the said Henry Major and this deponent were to sail, and were to receive one half of the profits arising therefrom to be shared between them; and this deponent further saith, that the said Henry Major declared, that he was to receive fifty pounds, that George Wilson was to receive fifty pounds, and that fifty pounds were to be allowed to Christian Gasman, to induce the said Christian Gasman to make an affidavit to the same purport as that requested of this deponent, and that the said sums of money were to be paid by Phineas Jacobs; and this deponent further saith, that the said Henry Major proposed to give the said Christian Gasman the sum of thirty pounds only, and to divide the

remaining sum of twenty pounds between the said George Wilson, Henry Major, and this deponent ; and this deponent further saith, that the said Henry Major declared, that the said Phineas Jacobs, by means of a letter from William Wenham, late of Hastings, in Suffex, knew where at any time to find persons to put either this deponent or Christian Gasman out of the way, by murdering them, and that the Reverend Mr. Daniel would not exist above a month, for that three or four men would be employed by the said Phineas Jacobs to murder him.

ROBERT THATCHER.

Sworn at Guildhall, London,

the 29th day of June 1797,

before me,

WM. PLOMER.

GEORGE HALLEY, late of *Ipswich*, in the county of Suffolk, millwright, maketh oath and saith, that on Sunday the 25th of June 1797, Henry Major, of East Place, Saint George's Fields, in the county of Surrey, mariner, came to this deponent, and offered this deponent 125l. to be immediately paid to him by Phineas Jacobs, of Norwich, tobacconist, upon condition that he, this deponent, would assist in getting Robert Thatcher, late of Woodbridge, in the county of Suffolk, mariner, to deny what he had already sworn respecting the capture of the *Clarissa*, by the *Daphne* privateer, Captain Thomas Abbott, of *Aldborough*, and of the subsequent

proceedings of the said Daphne privateer; and this deponent further saith, that the said Henry Major declared, that Phineas Jacobs would immediately pay him the like sum of 125l. being the other moiety of 250l. which the said Phineas Jacobs had offered to immediately pay, for the procuring of Robert Thatcher's denial of what he, the said Robert Thatcher had made affidavit of, respecting the capture of the Clarissa by the Daphne privateer, and of the subsequent proceedings of the said Daphne privateer; and this deponent further saith, that on or about the 27th of June 1797, Phineas Jacobs, of Norwich, tobacconist, offered to this deponent, and Henry Major, the sum of 250l. upon condition that they would procure the said Robert Thatcher to deny what he had already sworn, respecting the capture of the Clarissa by the Daphne privateer, Captain Thomas Abbott, of Aldborough, and of the subsequent proceedings of the said Daphne privateer; and this deponent further saith, that he told the said Phineas Jacobs, that he did know where the said Robert Thatcher was, but that he, this deponent, would not undertake to persuade him, and that it was out of the deponent's power to cause the said Robert Thatcher to make any such denial to his affidavit.

GEORGE HALLEY.

Sworn at the Mansion-house,

London, 27th Nov. 1797,

before me, ANDERSON, Mayor.

The following affidavits were likewise delivered, to prove the smuggling of the *Daphne*, by which the *Clarissa* became a dro't of Admiralty, under the 19th section of the 33d Geo. 3. cap. 66.

ROBERT THATCHER, late of *Woodbridge*, in the county of Suffolk, mariner, maketh oath and faith, that he was engaged by Thomas Abbott, of *Woodbridge*, captain of the *Daphne* letter of marque, or privateer, and George Cullum, of *Orford*, in the county of Suffolk, farmer, one of the owners of the said *Daphne* letter of marque, to go as a sailor on board the said vessel, and that he accordingly belonged to and sailed in the *Daphne*; and this deponent further faith, that on or about the 31st of October 1795, the *Daphne* sailed from *Orford* to *Hamburgh*, and in going down *Orford* river the *Daphne* sent on shore, in her boat, six bales of India goods, cleared for *Hamburgh* from the port of *London*, and which said six bales were landed at *Bartholop's Hard*, at the lower part of *Orford* haven; and this deponent further faith, that Amos Goodwin, of *Framfden*, in the county of Suffolk, farmer, Phineas Jacobs, of *Norwich*, tobaccoist, and Jeremiah Cullum, of *Orford*, in the county of Suffolk, taylor, were upon the beach to receive, and who did receive the said bales, and which said bales were carried away in carts by the afore-mentioned persons; and this deponent further faith, that the *Daphne* went into *Woodbridge Ha-*

ven, and from thence proceeded on her voyage to
 Hamburgh; and this deponent further saith, that
 the Daphne took in at Hamburgh five tons of to-
 bacco sand, several bales to the amount of ten
 bales or more of leaf tobacco, done up in mats;
 one box of Strasburg snuff, and six ankers of ge-
 neva; and this deponent further saith, that the
 Daphne sailed from Cuxhaven on or about the
 6th of January 1796; and this deponent further
 saith, that on the 12th of January 1796 the Daphne
 fell in with and captured the Clarissa, Captain
 Simmonds, from Surinam, bound to Amsterdam,
 when William Joyce and Robert Nunn, two of
 the crew of the Daphne, and Edmund Pleyer and
 Samuel Davis, who were passengers in the Daphne
 from Hamburgh to England, were put on board
 the Clarissa, and Christian Gasman, Alexander
 Macleod, and John Roberts, three of the crew
 belonging to the Clarissa, were put on board the
 Daphne; and this deponent further saith, that the
 Daphne proceeded directly to Woodbridge, where
 the Daphne arrived the 16th January 1796; and
 this deponent further saith, that the five tons of
 tobacco sand, and the bales of tobacco, and box of
 snuff, were landed from the Daphne at Ramsholt
 Dock, in Woodbridge Haven, in the night of the 16th
 of January 1796; and this deponent further saith,
 that the said tobacco sand, tobacco, and snuff were
 received by George Cullum, of Orford, farmer,
 a part owner of the Daphne, Jeremiah Cullum, of

Orford, taylor, another part owner of the *Daphne*, and Phineas Jacobs, of Norwich, tobaccoist, another part owner of the *Daphne*, and who sent the said tobacco sand, tobacco, and snuff, away from Ramsholt Dock in carts, which attended there for that purpose.

ROBERT THATCHER,
Sworn at the Mansion-house,

London, the 24th day of
July 1797, before me,

BROOK WATSON, Mayor.

CHRISTIAN GASMAN, of *Bermondsey*, in the county of Surrey, late a sailor on board the *Clarissa*, Captain Supply Simmonds, bound from Surinam to Amsterdam, maketh oath and faith, that on the 12th day of January 1796, the *Clarissa* was taken, off the Texel, by the *Daphne* privateer, Captain Thomas Abbott; and this deponent further saith, that he, this deponent, Alexander Macleod, and John Roberts, three of the crew of the *Clarissa*, were received on board the *Daphne*, and four men from the *Daphne* were sent on board the *Clarissa*; and this deponent further saith, that the *Daphne* proceeded to Woodbridge, where the *Daphne* arrived upon the 16th of January 1796; and this deponent further saith, that the *Daphne* had on board, when she captured the *Clarissa*, many bales of tobacco, and bags of tobacco sand, one box of snuff, and some ankers of geneva, and

which said bales of tobacco, bags of tobacco sand, and box of snuff, were unloaded and put on shore at Ramsholt Dock, in Wood-bridge Haven, in the night of the said 16th of January 1796; and this deponent further saith, that on the morning of the 17th of January 1796, the Daphne weighed anchor from Ramsholt Dock, and proceeded up Woodbridge river to Keiston, near Woodbridge, where this deponent went on shore.

CHRISTIAN GASMAN,

Sworn at the Mansion-house,

London, the 24th day of

July 1797, before me,

BROOK WATSON, *Mayor.*

AFFIDAVITS exhibited on the part of the said Thomas Abbott, in March 1798, to oppose the motion: but it is to be remembered, that these affidavits were delivered to Gostling 1st December 1797, and the Lords of Appeal were to sit on Saturday the 3d December, and the cause was fixed to come on. The motive for delivering the affidavits to the Admiralty Proctor, with so small an interval betwixt the hour of delivery and the day of trial, is perfectly obvious; there was no time meant to be left for contradiction, as there was scarcely sufficient allowed for perusal; however, it was stated to Mr. Gostling, that a cause respecting the property of one of the owners of the

Daphne, in the Clarissa's cargo, would be tried on the 5th of December at Guildhall, London, when some of the persons who had made the affidavits of the 30th of November would be examined. In the following pages will be seen how far the witnesses forgot, in one *short week*, what they had sworn: this reason indeed might be assigned, that they were made so drunk as not to know what they attested. The affidavits were also sent down ready manufactured, for the purpose of giving a *coup de grace* to the Admiralty claim. At the end of each affidavit thus produced by Abbott, will be either inserted the answer to it delivered at the Commons, or other documents, to shew the infamous perjury that has been resorted to, to defeat the purpose of Government in the investigation of this business.

It may not be amiss to state here, the Securities for the Daphne's letters of marque, from their principles and characters, the real design of the Captain and Owners could not be well mistaken; and it has been fully proved, as the sequel will shew, in the Court of Exchequer.

Dutch Letters of Marque, dated 16th October 1795.

GEORGE CULLUM, of Orford, in the county of Suffolk, farmer, formerly an outlawed smuggler, died in August 1797. At the time of his death (which was occasioned by accidentally falling from the top of a coach) a warrant was issued for ap-

prehending him for felony, in stealing a vessel called the *Mary-Anne*, which was afterwards sunk at sea with intent to defraud the underwriters here and at *Hamburgh*, as the vessel with her cargo (which was bales stuffed for the purpose, and shipped as manufactured cotton, and some cases of bottled porter) was insured at both places.—*Thomas Brown*, who went as pilot in the *Friendly*, Captain *Taylor* (another letter of marque of the same description as the *Daphne*), when the *Friendly* took the *Joanna Elizabeth* (a Dutch schoot, since condemned as a droit of Admiralty), was captain of the *Mary-Anne* when she was sunk, and was in custody, and is out upon bail. *Brown* was concerned with the gang, two or three of whom were executed, for stealing a very large quantity of dollars from a ship in the river *Thames*, and was confined a long time in *Newgate* for it.

The other security for the Dutch letters of marque was *RICHARD ARNOLD* of *Ramsholt*, *Suffolk*, farmer.—This man is generally known by the name of *Little Dick*: a reward of 50*l.* was against him for firing at an *Excise* boat, and wounding two of the officers; is a well-known smuggler on the *Suffolk* coast.

For French Letters of Marque, dated 1st June 1795.

GEORGE CULLUM, as above.

ABEL BROWN, of *Paradise Row*, *Chelsea*, a noted smuggler.

GEORGE CULLUM, afore-mentioned, was one of the Securities for the Friendly, Dutch letter of marque, dated March 29th 1796; and PETER BROWN, brother to the aforesaid Abel Brown, the other.

The Securities for the Friendly's French letters of marque, dated 3d July 1796, were men of no property, and were paid, by one of the owners of the Friendly, seven guineas for signing the bond.

N. B. Both the Daphne and Friendly have been condemned in the Exchequer for smuggling: the first, for the cargo of tobacco, &c. &c.; and the last, for relanding bandannas, whereof Joseph Cohen and Benjamin Elias have been convicted in the penalty of 2000l. upon their bond for the exportation thereof.

Affidavit of Henry Major. Sworn 3d July 1797.

On which day appeared personally HENRY MAJOR, of *East-street, West-square*, in the county of Surrey, gentleman, and made oath, that in or about the month of December last, he, this deponent, was employed by the Reverend William Barker Daniel, clerk, of Prospect-row, Saint George's Fields, in the county aforesaid, to proceed to Aldborough and other places in the county of Suffolk, for the purpose of getting into company with the officers and crew who had belonged to the private ship of war Daphne, particularly at the time she captured a merchant vessel called the Clarissa, whereof Supply Simmonds was master: and this

deponent further saith, that previous to his undertaking to proceed to Aldborough, he wished to have an understanding with the said Reverend William Barker Daniel, for what purpose he was to go, and how he was to be satisfied for his time and trouble, when he, the said Reverend William Barker Daniel informed him, this deponent, that from what he had heard, there were some irregularities respecting the captain's conduct of the private ship of war called the Daphne, or others belonging to the said private ship of war; and that if it could be discovered to be the case, they might make a good thing of it, or he, the said Reverend William Barker Daniel, expressed himself in words to that or the like effect; and that he, the said Henry Major, should partake and have an actual moiety with him of whatever sum or sums of money he might receive, and that he would give information to Government, so as to get the prize of the Clarissa from the captain and others entitled thereto under the capture: and this deponent further saith, that he proceeded to Aldborough in company with a Mr. Abraham Saunders, whom he, the said William Barker Daniel, had taken into his service, and whom he believes to be a very distressed man, the said William Barker Daniel paying him small sums of money for the purpose of keeping him to answer his purposes, and whom he, the said Reverend William Barker Daniel, had engaged to accompany him, and to pay his expences, and to give him

some sum of money over and above his expences, and paying him for his trouble, if he, the said Reverend William Barker Daniel, succeeded in getting the property of the Clarissa condemned as a droit and perquisite of Admiralty: and this deponent further saith, that when they arrived at Aldborough, he made every exertion in his power to find out where any of the officers or crew were, who had belonged to the Daphne, but could not find any to answer his purposes, as he could not get any information from any person that could answer the intention of the Reverend William Barker Daniel or himself; and this deponent further saith, that he verily believes that no evidence could be got any where by the said Reverend William Barker Daniel, or any person for him, until he, the said Reverend William Barker Daniel, was informed by George Holley, which was in the latter end of April or the beginning of May last, that Robert Thatcher was in the river Thames, on board of a Merchant ship called Harlequin, belonging to the said Thomas Abbot. and that the said Robert Thatcher had formerly belonged to and been on board the Daphne: and this deponent further saith, that he hath been informed by the said Reverend William Barker Daniel, that he then employed the said George Holley to go on board the said merchant ship Harlequin, for the purpose of getting him to go to Prospect-row, to the said Reverend William Barker Daniel, which was done: and this

deponent further saith, that he, this deponent, was in the room with the said Reverend William Barker Daniel when he, the said Robert Thatcher, arrived; but that he left the same, and went into an adjoining room for a few minutes, and then returned into the room where the said Reverend William Barker Daniel and Robert Thatcher were sitting, when a conversation ensued between him, the said Reverend William Barker Daniel, this deponent, and the said Robert Thatcher; but that the said Robert Thatcher would not say any thing on the business relating to the private ship of war Daphne without he had money given him, for it was that he was in want of, when the said Reverend William Barker Daniel said that he should have money, and offered him ten pounds down if he would make such an affidavit as he would draw for him, which he, the said Robert Thatcher agreed to do; and upon further promising to give him more down, or when the prize of the Clarissa should be determined in his, the said Reverend William Barker Daniel's favour; that he had sold his prize-money, and for too small a sum; upon which the said Reverend William Barker Daniel agreed to give him, the said Robert Thatcher, the said sum of ten pounds down as soon as he was sworn, and he would prepare an affidavit for him: and this deponent further saith, the said Reverend William Barker Daniel prepared for him the said affidavit, upon which he was sworn to, on the 29th day of May last, before the

Right Honourable the Mayor of London ; and that he, the said Reverend William Barker Daniel, him this deponent, and the said George Holley, accompanied him, the said Robert Thatcher, when he went to be sworn to the said affidavit, which was done ; and the said Reverend William Barker Daniel did actually give him two bank notes of the value of five pounds each, in the presence of him this deponent and the said George Holley : and this deponent further saith, that the said Robert Thatcher had informed the said Reverend William Barker Daniel, in this deponent's presence, that if he wanted a further affidavit, he could tell him where he might get it ; and then informed him that Christian Gasman, who had been on board the said private ship of war Daphne, was then on board the said merchant ship Harlequin, and that he might be got for the purpose, as he believes : and this deponent further saith, that the said George Holley was sent for the purpose of procuring him, and actually did procure him, to go to the said Reverend William Barker Daniel, and he then prevailed upon him, and agreed to make affidavit, which was done on the 6th day of June last, before the said Right Honourable the Lord Mayor : and this deponent further saith, that he verily believes that the said Reverend William Barker Daniel hath given various informations or accounts to Government relative to the said private ship of war Daphne, and that he hath been the means of Government

giving directions or instructions for the commencement of proceedings against the captors and others concerned in the private ship of war *Daphne*; and this deponent lastly saith, that he is of opinion, and very believes, that the affidavit made and sworn to as aforesaid (to wit) on the 29th day of May, and 6th day of June last, are not strictly true, as this deponent hath been informed by the said Reverend William Barker Daniel, that he, the said Robert Thatcher, had declared that if he could get a larger sum of money than the sum already paid, and agreed to be paid, by the said Reverend William Barker Daniel, that he would make an affidavit in favour of the said captain Abbott, or others concerned in the said private ship of war *Daphne*.

HENRY MAJOR.

As the affidavits to contradict the above extraordinary one of Mr. Major, apply likewise to that of Gasman, they are placed at the end of Gasman's.

Further Affidavit of Christian Gasman, sworn 30th November 1797.

Personally appeared, CHRISTIAN GASMAN, of *Woodbridge*, in the county of Suffolk, late of *Bermondsey*, in the county of Surrey, and made oath, that he was a sailor on board the merchant ship *Clarissa*, whereof the said Supply Simmonds was master; and that the said merchant ship was captured by the private ship of war, the *Daphne*, whereof Thomas Abbott was commander, on the 12th day of January, in the year of our Lord 1796, and that he was taken out of the said merchant ship

Clarissa, and put on board the said private ship of war, by order of Thomas Abbott, the commander thereof; and this deponent further saith, that in the month of May 1797, he was on board a merchant ship called the Harlequin, then lying in the river Thames, and was applied to by George Holley, otherwise Wilson, otherwise French, who was then in the service of the Reverend William Barker Daniel, as he verily believes, to accompany him to the said Reverend William Barker Daniel, and who was then a prisoner within the rules of the King's Bench, which he accordingly did; and this deponent saith, that the said Reverend William Barker Daniel informed him, that he sent for him to request that he would make an affidavit agreeable to one which had been made by Robert Thatcher, and which he then produced to him; and he then declared that he had given the said Robert Thatcher various sums of money for swearing the same, and that if he would make an affidavit to the like effect, he would support him with money during the dependance of the cause of the Clarissa, between the captors and the Lords of the Admiralty; and if he would likewise come forward at any future time, if wanted, he should be well paid upon the conclusion of the cause, if it ended to his, the said Reverend William Barker Daniel's advantage; and this deponent further saith, that he accordingly made an affidavit on the 6th day of June 1797, before the Right Honourable Lord Mayor, and at the time

he made the same, he was accompanied by the said William Barker Daniel ; and this deponent further saith, that when he made the said affidavit, he was in a very distressed situation, and was in a state of intoxication, and did not perfectly understand the contents of the said affidavit, nor did he know the contents of the said affidavit within a week last past ; and this deponent further saith, that he hath with attention perused a copy of the said affidavit, so as aforesaid sworn to by him, this deponent, and he is now convinced that the said affidavit, so as aforesaid sworn to, is not true, and that nothing whatever, but the state in which he hath before described himself to have been, would have induced him to have sworn to an affidavit of that, or the like effect.

CHRISTIAN GASMAN.

ABRAHAM SANDERS, of *Wapping*, Saint George's in the East, sail-maker, George Halley, late of Ipswich, in the county of Suffolk, but now of Garden Row, Saint George's Fields, millwright, and Robert Thatcher, late of Woodbridge, in the county of Suffolk, mariner, but now of Battle, in the county of Suffex, severally make oath and say ; and first, Abraham Sanders for himself sayeth, that some time in October 1796, he was asked by the said Henry Major to go down to Feversham, in Kent, and afterwards to go to Aldborough, in Suffolk ; and this deponent further saith, that he was ac-

companied by the said Henry Major to Wood-
 bridge, on the 19th of November, and that on the
 20th and 21st they saw William Joyce, one of the
 crew of the Daphne, who, in the presence of the
 said Henry Major, gave to the said Abraham San-
 ders information respecting the Daphne, which this
 deponent then wrote down, and to which after-
 wards, on the 27th of June 1797, this deponent
 made an affidavit, which is marked (A); and this
 deponent further saith, that he is not, or ever was
 in the service of the said William Barker Daniel,
 nor was he ever promised any sum of money to be
 paid upon the condemnation of the Clarissa, or upon
 any other account whatever; and this deponent
 further saith, that he never received any sum of
 money of the said William Barker Daniel, for the
 intent of keeping this deponent to answer the said
 William Barker Daniel's purposes: And this depo-
 nent, George Halley, for himself saith, that on or
 about the 6th of April 1797, Henry Major, of East
 Place, Saint George's Fields, in the county of Surry,
 mariner, came to this deponent, and requested him
 to go to Leiston and enquire the name of the bro-
 ther-in-law of John Taylor, captain of the Friendly
 privateer of Aldborough, and also to go to Aldbo-
 rough, and see if the Friendly was then in port,
 and he accordingly did; and this deponent further
 saith, that the said Henry Major desired him to
 enquire who were the owners and crew of the
 Daphne privateer, captain Thomas Abbott, of Ald-

borough; and this deponent further saith, that on or about the 27th of May, he went to the said Henry Major in East Place, accompanied by Robert Thatcher, and from thence to the Reverend William Barker Daniel, in Prospect Place, where the said Robert Thatcher was introduced by the said Henry Major, to the said William Barker Daniel, as one of the crew of the Daphne privateer, and who could be of service in his cause about the money which he had attached in the hands of Messrs. Godwin and Company; and this deponent further saith, that he was never out of the room whilst the said Robert Thatcher was at the said Reverend William Barker Daniel's, and that there was no demand made on the part of Robert Thatcher of ten pounds, or any other sum of money for the said Robert Thatcher, to make an affidavit respecting the Daphne, or did the said William Barker Daniel make any offer of ten pounds, or any other sum of money to induce the said Robert Thatcher to make such affidavit; and this deponent further saith, that he never quitted the room, and must have heard if any such offer or demand had been made; and this deponent further saith, that the said William Barker Daniel did not give the said Robert Thatcher two five pound notes, or any other sum of money as a gratuity or reward for the swearing such affidavit on the 29th of May, in the presence of this deponent; and this deponent further saith, that calling upon Jonathan Cook, at

the King's Head, East-Lane, Rotherhithe, he accidentally fell into the company of Christian Gasman, who in the course of conversation told this deponent, he had been put on board the Daphne out of the Clarissa; and this deponent further saith, that the said Christian Gasman came in the forenoon of the 6th of June to Prospect Place, and gave an account of the manner in which the Clarissa was taken, and also of the transactions of the Daphne, after he was shipped on board the said vessel, and to the truth of which the said Christian Gasman offered to swear; and this deponent further saith, that at the time of the said Christian Gasman giving such description, he was perfectly sober, and repeated what he had alleged for the purpose of its being wrote down, and an affidavit to be made, and that prior to the said Christian Gasman signing such affidavit, he read over the same and acknowledged it to be right; and, lastly, this deponent denies being then, or at any other time, in the service of the said William Barker Daniel: And the said Robert Thatcher for himself saith, that on the 27th of May last, he attended George Halley to the house of Henry Major, of East Place aforesaid, and from thence to the Reverend William Barker Daniel aforesaid, where the said Henry Major introduced this deponent to the said William Barker Daniel, and requested him to state the particulars of the capture of the Clarissa, which this deponent did; and this deponent further saith, that he did

not demand ten pounds, or any other sum of money, for stating the facts respecting such capture, or had he any offer of ten pounds, or any sum of money to induce him to swear to the facts so related at the request of the said Henry Major; and this deponent further saith, that he did not receive two five pound notes, or any other sum of money, as a gratuity or reward, on the 29th of May 1797, the day whereon the affidavit was sworn, or on any other day for making the said affidavit; and this deponent further saith, that he never told to the said William Barker Daniel the name or situation of Christian Gasman on board the Harlequin; and, lastly, this deponent expressly saith, that he voluntarily made the said affidavit on the 29th of May 1797.

A. SANDERS.

GEO. HALLEY.

ROB. THATCHER.

Sworn before me,

7th Dec. 1797.

J. BOYDELL.

Affidavit referred to by Sanders, marked (A).

ABRAHAM SANDERS, of *Wapping*, Saint George in the East, sail-maker, maketh oath and saith, that the ship or vessel called the *Daphne*, of Aldborough, in the county of Suffolk, commanded by Thomas Abbott, was a letter of marque; and this deponent further saith, that on the 20th and 21st of November 1796, William Joyce, late a sailor on board

the Daphne, declared to this deponent, at Woodbridge, in the county of Suffolk, that he the said William Joyce had sailed in the Daphne from the time of the Daphne being commissioned as a privateer; and that some time in the month of October 1795, the captain and crew of the Daphne attended at the house of Mr. George Cullum, of Orford, in the county of Suffolk, a part owner of the said ship called the Daphne, and signed certain articles which were there produced by Mr. Phineas Jacobs, of Norwich, tobacconist, another part owner of the Daphne; that after the said articles were signed, they were given to or taken by captain Abbott, but which articles none of the crew could ever see afterwards; that two persons were present at Mr. Cullum's, whom he (Joyce) understood to be Mr. George Healey, late of Piccadilly, tobacconist, and his brother, Mr. John Healey, of Bishopsgate Street, London, tobacconist; that the persons whose names are hereafter inserted, were those that were the crew of the Daphne, and who were at Cullum's, and who all but one signed the aforementioned articles, and which persons were the whole of the crew on board of the Daphne, when the Clarissa was taken, and of which number two were ill, and one with the small-pox;

Capt. Thomas Abbott,	John Laffs, alias Great
Robert Thatcher,	Jack, who refused to sign
Robert Nunn,	the articles at Cullum's,
William Joyce,	John Johnson,
Peter Greenland, a boy,	Thomas Coppin;

and this deponent further saith, that the said William Joyce declared to this deponent, that the crew of the Daphne were never mustered at Aldborough or elsewhere, previous to the capture of the Clarissa as aforesaid; that the Daphne had four brass two-pounders, and two iron three pounders, and some small arms on board when the Clarissa was taken, and that he the said Joyce was one of the persons put on board the Clarissa, to carry her into Shields, where she arrived the 21st of January; and this deponent further saith, that the said William Joyce declared to this deponent, that Samuel Davis and ——— Player, chief and second mate of an American vessel, and who had come on board the Daphne at Hamburgh, to be carried as passengers to England, were shipped with Joyce into the Clarissa, and that captain Abbott delivered to Pleyer a copy of his commission, to act on board the Clarissa as prize-master; and this deponent further saith, that the said William Joyce declared to this deponent, that while he (Joyce) was at Shields he sold his four shares of prize money for the Clarissa unto Mr. William Rowe, of Shields, for £ 300. and that Mr. John Healey wanted to buy the said four shares, for which he offered £ 35. for each share.

ABR. SANDERS.

Sworn at the Mansion-house;

London, the 28th day of

June 1797, before me,

JOHN BOYDELL.

WILLIAM BARKER DANIEL, of *Prospect Place*, Saint George's Fields, in the county of Surrey, clerk, maketh oath and faith, that in or about the month of October 1796, Henry Major, alias May, of East Place, Saint George's Fields, mariner, brought to this deponent a person of the name of Abraham Sanders, for the purpose of going down to Feverham, and finding out some transactions on board a Dutch schoot then lying there, in which the said Henry Major declared himself to be interested; and this deponent further faith, that upon such representation of the said Henry Major, he did advance money to bear the said Abraham Sanders' expences to and from Feverham; and this deponent further faith, that the said Henry Major, during the time the said Abraham Sanders was gone to Feverham, gave this deponent to understand, that the said Abraham Sanders knew one or more of the crew of the *Daphne* letter of marque, Captain Thomas Abbott, of Aldborough, and that by this deponent's employing the said Abraham Sanders to see such one or more of the crew of the said *Daphne*, this deponent might obtain information which would materially serve this deponent, in a cause of attachment issued out of the Lord Mayor's court, at the suit of this deponent, to attach the monies belonging to Phineas Jacobs, of Norwich, tobacconist, one of the owners of the said *Daphne* privateer, and which monies was then attached in the hands of

Messrs. Coles, Godwins, and Coles, of Scot's Yard, Cannon Street, in the city of London; and this deponent further saith, that the said Henry Major voluntarily offered to go with the said Abraham Sanders, as he, the said Abraham Sanders, was a perfect stranger to this deponent; and this deponent further saith, that the said Henry Major never demanded any compensation for his time and trouble, other than that his travelling expences should be paid, the said Henry Major remarking, that whilst in the country, he could have opportunity to enquire into his own business, with a Captain John Taylor of Leiston; and this deponent further saith, that he never, at the time aforesaid, mentioned an intention of giving information to Government, respecting the prize called the Clarissa, taken by the Daphne privateer; and this deponent further saith, that upon consulting with his friends, it was thought expedient to endeavour to find out the crew of the Daphne, or some of them, who could speak to the share which the said Phineas Jacobs held in the Daphne, and prize-money attached as aforesaid; and this deponent further saith, that on or about the 19th November, the said Abraham Sanders and Henry Major did proceed to Aldborough, for the purpose above-mentioned; and this deponent further saith, that he knows nothing of the circumstances or situation of the said Abraham Sanders, having never before seen him until the said Henry Major brought and

introduced him to this deponent in October 1796 ; and this deponent further saith, that the said Abraham Sanders is not, or ever was, in his service, or was ever promised by this deponent any sum of money upon the condemnation of the Clarissa, or upon any other account whatever, nor was he ever paid by this deponent any sums of money, for the purpose of keeping him to answer his, this deponent's purposes ; but this deponent verily believes the said Abraham Sanders to be an honest, sober man, and who maintains himself and family by his industry ; and this deponent further saith, that on the 13th April 1797, the said Henry Major told this deponent, that the said Phineas Jacobs had offered him, on the 11th April, 1000l. to be immediately paid, if the said Henry Major would withhold his evidence respecting the Clarissa's capture, and the said Henry Major also declared to this deponent, on the 1st May 1797, that the said Phineas Jacobs had, on the 29th April last, again offered him 1000l. to be paid immediately, if the said Henry Major would withhold his evidence respecting the transactions concerning the capture of the Clarissa ; and this deponent further saith, that he never saw George Halley on the latter end of April or beginning of May, as sworn to by the said Henry Major ; but the first time this deponent saw and knew the said George Halley was upon the 25th May 1797, and that he never told the said Henry Major that he had employed the said

George Halley respecting Robert Thatcher, but that the said Robert Thatcher was introduced to this deponent on the 27th May, by the said Henry Major, and described by him to be one of the crew of the Daphne when the Clarissa was taken, and who could give information that would tend to the success of this deponent's attachment against the said Phineas Jacobs; and this deponent further saith, that he never was asked for ten pounds by the said Robert Thatcher, to induce him to make his affidavit of what facts he knew respecting the Daphne, nor did this deponent offer to pay him ten pounds, or any other sum of money, for making an affidavit to the facts he knew respecting the Daphne; but that the said Robert Thatcher came voluntarily with the said Henry Major to this deponent; and this deponent further saith, that he never produced any paper, to which he asked the said Robert Thatcher to swear; but that he took down instructions from the said Robert Thatcher for his affidavit, and after having so done, the said Robert Thatcher read over and declared the same to be true, and from which instructions so given to this deponent by the said Robert Thatcher, he, this deponent, prepared the said Robert Thatcher's affidavit; and this deponent further saith, that he did not give two five pound notes, or give any other sum of money, to the said Robert Thatcher as a gratuity or reward for the said Robert Thatcher's making such affidavit; and this deponent further saith, the said Ro-

bert Thatcher never told this deponent the name or situation of Christian Gasman on board the Harlequin; but this deponent further saith, that the said Christian Gasman did come, on the 6th June 1797, and voluntarily offered to this deponent, to make an affidavit of the facts respecting the capture of the Clarissa, in which ship he was when the Clarissa was taken by the Daphne; and this deponent further saith, that, on the 6th June, the said Christian Gasman came to this deponent between eleven and twelve in the forenoon, when the said Christian Gasman was perfectly sober, and this deponent wrote from what the said Christian Gasman told him; that after writing what the said Christian Gasman afterwards swore to, this deponent read over the same to the said Christian Gasman, who said it was perfectly right; that this deponent then wrote a fair copy of the said affidavit, which he read over to the said Christian Gasman, and desired the said Christian Gasman to read over himself, which he did, and acknowledged the same to be strictly true, and then signed the same; and this deponent further saith, that he did not, on the 6th day of June 1797, accompany the said Christian Gasman to the Right Honourable the Lord Mayor, to swear the above-mentioned affidavit, nor did he accompany the said Christian Gasman when he swore two other affidavits, (to wit) on the 28th June and 24th July; and this deponent further saith, that on the 6th day of June 1797, this deponent was a

prisoner within the rules of the King's Bench, and that the said 6th day of June 1797 was out of term, and this deponent could not obtain a rule to go without the limits of the court out of term; that the 28th June 1797 he had no day rule, as will appear by the Marshal's book, and the 29th July 1797 being also out of term; and this deponent further saith, that the said Christian Gasman, on the 4th October 1797, came to this deponent, and said that he had recollected some circumstances which he, the said Christian Gasman, was ready to depose to, and requested this deponent to make a minute of them, and get an affidavit prepared which he would make; and this deponent accordingly wrote, at the said Christian Gasman's desire, "that when the Daphne came in, four brass guns were taken from the hold, loaded with ball by Thatcher, at the command of Abbott, and musquets were delivered to all the crew, and ordered to be loaded by Abbott with two or three balls each, and to fire on the Custom-house boats; that John Laft and Coppin went on shore in the boat at Bowdsey Ferry with two lanterns, to get lights to go in by;" and, lastly, this deponent saith, that he never informed the said Henry Major that the said Robert Thatcher had declared, that he could obtain a larger sum of money than was stated to have been promised him by this deponent, if he would make an affidavit in favour of Captain Abbott or any other person, this deponent, in the first place, ne-

ver having promised the said Robert Thatcher any sum of money; and, secondly, as he, the said Robert Thatcher, had withstood the said Henry Major's attempt to bribe him, the said Robert Thatcher, to make such contradictory affidavit.

WILLIAM BARKER DANIEL.

Sworn before me,

7th Dec. 1797,

J. BOYDELL.

GASMAN's affidavit of 30th November, may be imputed to the payment early in November of a debt of upwards of nineteen pounds to his landlord, by Captain Abbott, and likewise to the influence of the following note, which bears date the same day the affidavit is sworn.

£. 40.

Ten days after the settling of the business of the Clarissa prize, taken by the Daphne, Thomas Abbott commander, in favour of the owners thereof, I promise to pay to Mr. Christian Gasman, or order, Forty Pounds, money due therefrom, as witness my hand,

THOS. ABBOTT.

Ramsholt, 30th Nov. 1797.

Added to which, Gasman, in a letter to his landlord, dated 6th November 1797, says, "Thank God, I have obtained forty guineas for my trouble,

and six guineas per month, as master of a small vessel."

It is to be observed, that Gasman, in his affidavit of the 30th November, does not specifically deny the facts sworn to by him 6th June 1797, respecting the number of the crew, and of the cargo of tobacco on board the *Daphne*, when the *Clarissa* was captured, and which cargo of tobacco he assisted to land clandestinely from the *Daphne*, in the night of the 16th January 1796, in Woodbridge Haven; nor does he notice at all the affidavits made by him the 28th of June and 24th of July 1797: the most that can be made of what he says the 30th November is, that he was drunk upon the 6th June; and although there had elapsed a space of six months to correct any errors spoken in this state of intoxication, he does not recal a syllable as to the material facts; indeed he has solemnly averred, that the affidavit read over to him on the 30th November at Harwich, was very different to what he attested.

It will scarcely be credited, that after Mr. Major's *stopping at nothing* to aid the party, by his affidavit of the 3d July 1797, he should, in November 1798, through the medium of a Mr. Thomas Gill, offer to give information to the Admiralty of the illegal conduct of the captain and owners of the *Daphne*. He had long been, and was at the time, supported by one of the owners of the *Daphne* at a heavy expence:—no slight proof of the apprehension the

party entertained of his intent to do them mischief, and of the accomodating conscience of Mr. Major where he conceived his own interest to be concerned.

Affidavit of Thomas Coles. Sworn 17th November 1797.

Appeared personally, THOMAS COLES, of *Scott Yard, Bush Lane, Cannon Street*, London, broker, one of the partners in the house of trade, under the firm of Messrs. Coles, Godwin, and Coles, and made oath, that on or about the month of August, 1796, the deponent's said house of trade was applied to by the owner and agents of the private ship of war, *Daphne*, whereof Thomas Abbott was commander, to sell certain goods, wares, and merchandizes, laden therein, which were condemned as good and lawful prize to the said private ship of war, *Daphne*, being unclaimed: and this deponent further saith, that his said house of trade did accordingly sell the said goods, by order of the owner and agents of the said private ship of war, *Daphne*, and the proceeds or produce thereof his said house of trade paid to the owner and agents of the officers and crew of the said private ship of war, *Daphne*, saving and except the sum of 4000 pounds, which this deponent's said house of trade retained in their hands, to answer the security given by them, in the court of Admiralty, for freight, demurrage, and expences, which might be adjudged

by the said court: and this deponent further saith, that he doth verily, and in his conscience believe, that the money arising from the sale of the said goods hath been shared, and the accounts settled between the said agents.

THOMAS COLES.

Affidavit of Jeremiah Cullum, owner of the Daphne.
Sworn 28th November 1797.

Appeared personally JEREMIAH CULLUM, of Orford, in the county of Suffolk, merchant, and made oath that he is THE OWNER of the private ship of war, Daphne, Thomas Abbott, commander; and that the said private ship of war captured the merchant ship or vessel Clarissa, whereof Supply Simmonds was master, which was proceeded against in the high court of Admiralty; and on the 21st of July, 1796, the said cause came on for hearing, when the Judge was pleased to condemn one-fourth part of the said ship and the goods claimed by George Henry Apthorpe; and likewise was pleased to condemn the unclaimed part of the cargo, and ordered further proof to be made of the other one-fourth part thereof: And this deponent further saith, that the one-fourth part of the goods claimed by George Henry Apthorpe, were in due time appealed to the right honourable the Lords Commissioners of Appeal: And this deponent further saith, that the unclaimed part of the cargo being condemned, he, this deponent, em-

ployed Messrs. Coles, Godwin and Coles, to sell the unclaimed part of the cargo of the said ship, which was accordingly done: And this deponent further saith, that the money arising from the sale of the said goods, was paid to himself and the agents appointed by the officers and crew of the said ship: And this deponent further saith, that *the usual time* allowed by act of parliament having elapsed from the condemnation of the said goods, *to wit, a twelvemonth and a day*, there being no claim (in the Admiralty Court), the money, as aforesaid, was distributed agreeable to the agreement entered into by HIMSELF with the officers and crew of the said vessel, save and except 4000l. which remains in the hands of Messrs. Coles, Godwin and Coles, to answer the reserved question of freight and expences which may hereafter be decreed: And this deponent lastly saith, that the money was so as aforesaid distributed, *having waited the accustomed time* allowed by act of parliament,

JEREMIAH CULLUM.

In the Daphne's register, 12th of September 1795, J. Cullum swears himself SOLE OWNER. He has persevered in stating himself to be the owner, in his affidavit of the 28th of November 1797; the credit which ought to be given him upon this point, the following agency bills will determine.

Stamp
6 Shillings.

Stamp
1 Shilling.

Owners of the Daphne
Letter of Marque.

	Parts.
GEORGE CULLUM,	1-5th
JEREMIAH CULLUM,	1-5th
THOMAS ABBOTT,	1-5th
JOHN HEALEY,	1-5th
PHINEAS JACOB,	1-5th

We the owners and proprietors of the private ship of war called the Daphne, belonging to the port of Aldborough, do constitute and appoint John Healey, of the city of London, merchant, George Cullum, of the town and port of Orford, gentleman, and Phineas Jacob, of the city and county of Norwich, tobacconist, to be our lawful attorneys and agents, to act and transact for our mutual advantage and benefit, every matter and concern (whatever) respecting what ships or vessels that may be captured by the said private ship of war called the Daphne, whereof Captain Thomas Abbott is now commander, for which agency and trouble, we, the undersigned, do agree to allow the said John Healey, George Cullum, and Phineas Jacob, £5. *per cent*, to be deducted in the first instance from all proceeds that may occur, during twelve calendar months, from the date of these pre-

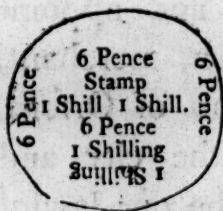
sents. Witness our hands the 30th day of October, 1795, at the town of Orford.

Witness
RALPH COULSON,
JOHN HOOPER.

GEORGE CULLUM.
JEREMIAH CULLUM.
THOMAS ABBOTT.
JOHN HEALEY.
PHINEAS JACOB.

Examined with the original deposited in court by an order, made 17th of November, 1797, of which this is a true copy.

JOSEPH KEECH, Assistant Deputy Register,
LAUNCELOT DOCKER.



Dun at the Port of
Orford, 30th day
of October, 1795.

We Thomas Abbott, captain, Rewell Debney, lieutenant, William Joice, boatwain, Robert Thatcher, gunner, Robert Nunn, surgeon, and Thomas Cobham, Peter Greenwell, Jeremiah Barber, seamen, do constitute and appoint, Mr. John Healey, of the city of London, merchant, and Phineas Jacob, of the city of Norwich, tobacconist, to be our lawful attornies and agents to act and transact for our mutual advantage and benefit to the best of their judgment, all and every matter and concern whatsoever, to use their endeavours to bring to

condemnation, any ship or vessel, or their cargoes, which may be captured and brought or sent into any port in England, by the *Daphne* privateer, to which ship we now belong, and now bound on a cruise, and for which agency and trouble, we do agree to allow the above named John Healey and Phineas Jacob, *£5. per cent.* on all proceeds.

Witness our hands the 30th day of October, 1795.

THOMAS ABBOTT.

ROWALL DEBNEY.

WILLIAM JOICE.

ROBERT THATCHER.

ROBERT NUNN.

his $\times$ mark

Witness.

THOMAS COPHAM.

RALPH COULSON.

his $\times$ mark

JOHN HOOPER.

PETER GREENWELL.

Examined with the original deposited in court by an order made on the 17th of November, 1797, of which this is a true copy.

JOSEPH KEECH, Assistant Deputy Register.

LAUNCELOT DOCKER.

Under the authority of these Agency Bills, Messrs. Godwin and Coles, sold the cargo of the *Clarissa*.

Cullum likewise swears, that the money remained *a year and a day*, and was then distributed. Now the fact is, as appears, by the following account,

delivered in by Messrs. Godwin and Coles upon oath, dated 22d of April, 1797, in answer to a bill filed in the Lord Mayor's court by a creditor of Phineas Jacob, one of the *five owners* of the Daphne, that the whole money was paid in cash and bills, and the Account closed, FIVE MONTHS within the time *specified by law and sworn to by Cullum.*

BILLS drawn by JACOB, HEALEY, &c. on COLES, GODWIN and Co. on account of Cargo of CLARRISSA, Captain Simmonds.

		£.	s.	d.
3 Sept. 1796.	Drawn by P. Jacob, J. Healey, G. Cullum, and J. Cullum, payable at 40 days after date, to William Allen, or order - - - -	134	16	0
Ditto.	By P. Jacob, two months after date, to J. Healey, or order	600	0	0
Ditto.	By P. Jacob and Company, 40 days after date, to Supply Simmonds, or order - -	500	0	0
14 Sept.	By P. Jacob, 1 month, to Levy Barend Cohen, or order	1141	0	0
28 Sept.	By J. Healey, 2 months, payable to his own order - -	250	0	0
Ditto.	By Ditto, 6 weeks, ditto -	550	0	0
Ditto.	By Ditto, 1 month, ditto -	500	0	0
29 Sept.	By P. Jacob and J. Healey, 1 month, to George Skelton	301	1	0
		£	3976	17 0

	Brought over	£ 3975	16		£.	s.	d
4 Oct.	By Ditto, at 2 months, to ditto	561	18	4			
Ditto.	By Ditto, at 35 days, payable to Samuel Davis, or order	327	2	4			
7 Oct.	By P. Jacob, for Himself and Company, at 2 months, to his own order - - - -	500	0	0			
		£ 5365	17	8			

CASH paid to HEALEY, JACOB, &c. by COLES,
GODWIN, and Co.

26 July	To P. Jacob, George Cullum, 1796. and Jeremiam Cullum -	1000	0	0
3 Sept.	To Ditto, Ditto - - -	2007	10	3
24 Sept.	To John Healey - - -	200	0	0
29 Oct.	To William Wenham - -	3568	6	4
Ditto.	To James Hefeltine - -	218	3	11
Ditto.	To Jeremiah Cullum - -	530	19	6
Ditto.	To George Cullum - - -	542	16	11
Ditto.	To the order of the said agents	338	15	4

£ 8406 12 3

July 1796, condemned.

February 1797, closed account,
7 months.

Expences of sales, &c. by Coles,
Godwin, and Co.

1053 7 4

£ 13,772 9 11—£ 14,825 17 3

Upon the question of Ownership, and of the time the money remained before distribution, Mr. Cullum is perjured, nor can he shelter himself by alleging, that he received the money from Messrs. Coles and Godwin's, and retained it in his own hands, until the period sworn to by him of a twelve-month and a day had expired. The parties in whose favour the bills were drawn, and to whom the cash was paid, effectually prove the contrary; and the amount of the shares bought from the officers and crew, were all purchased by the Owners or their Agents, at a shameful low value, (and which value was managed by different artifices, such as the cargo being damaged so as scarcely to pay law charges, &c. &c.) and were all included in the various sums paid by Messrs. Coles and Godwin, as stated in their account within the seven months; neither was there any Agreement entered into by Cullum with the officers and crew of the *Daphne*, the crew had not mentioned him in their agency bill, and he had assigned over his authority to three of his brother Owners, in that signed by the proprietors of the *Daphne*.

Affidavit of Robert Nunn. Sworn 30th of November, 1797.

Personally appeared, ROBERT NUNN, of Orford, in the county of Suffolk, mariner, who being sworn upon the Holy Evangelists, voluntarily maketh oath and faith, that on or about the 15th day of October,

which was in the year of our Lord 1795, to the best of his recollection as to the day, this deponent was shipped as gunner, on board of the *Daphne* privateer, or letter of marque, of Aldborough, captain Thomas Abbott commander, at Orford aforesaid ; and that he, this deponent, continued as such gunner on board the said privateer, until on or about the 12th day of January, 1796, to the best of his recollection as to the day, when he was put on board the snow *Clarissa*, captured by the said privateer : and this deponent further saith, that on or about the 29th day of October, 1795, in the afternoon previous to the sailing of the same privateer from Orford, her crew was mustered at Orford aforesaid, on board of the privateer, by Mr. Robert Osborne, the principal officer of customs there, and then had actually on board of and belonging to the said privateer, as her crew, 20 persons, including her captain and officers, and that at the time last mentioned, the said privateer had also actually on board eight carriage guns mounted, together with four swivels, several muskets, blunderbusses, pistols, cutlasses, and an adequate quantity of cartridges, balls, bullets, powder, and other ammunition ; and to the best of the deponent's judgment and belief, was every way properly fitted, armed and manned as a privateer or letter of marque, for cruising against, and capturing of the enemies' ships or vessels : and this deponent further saith, that the said privateer or letter of marque, being so properly fitted, armed, ^a and man-

ned, and mustered as aforesaid, the next day after such muster sailed from Orford aforesaid, on a cruise, and she was steered for the Dutch coast, her crew being in expectation of meeting with some of the Dutch Surinam ships, which they understood were expected home ; that, cruising off the Texel, they met with heavy gales, at about west and south-west, which continued for about four or five days, and blew the said privateer down to the coast of Jutland ; that when the wind came more moderate, they beat back to the entrance of the Elbe, and the said privateer being in distress by the loss of her boom and gaff, her rigging otherwise much damaged, and being in want of water and fresh provisions, they sailed up the Elbe to Hamburg, with a fair wind blowing fresh, where the said privateer repaired and fitted, in about a fortnight, and then got down to Cuxhaven, and laid there with a contrary wind, and bad weather, for about 10 days, when they got to sea ; and while they were cruising off the Texel, about the 12th of January, 1796, they gave chase to, and captured the snow Clarissa ; and this deponent, and three others of the crew of the said privateer, were immediately put on board, and in possession of the said snow, by the said captain Abbot, with directions to make for the nearest British port, and that being put on board of the said Prize, this deponent, with the said three other persons belonging to the said privateer, steered the Prize for England, leaving the privateer on her cruise off the Texel, and ar-

rived at Shields with the said Prize: and this deponent saith, that he hath not belonged to the said privateer since he arrived at Shields, with the Clarissa, Prize as aforesaid.

his

ROBERT X NUNN.

mark.

Affidavit of William Joyce, Boatswain of the Daphne.

Sworn 30th November, 1797.

WILLIAM JOYCE, of *Woodbridge*, in the county of Suffolk, mariner, personally appears, and being sworn on the Holy Evangelists, voluntarily maketh oath and saith, previous to the 15th day of October, which was in the year of our Lord 1795, this deponent was shipped as Boatswain on board of the *Daphne* privateer, or letter of marque, of *Aldbrough*, captain *Thomas Abbott*, commander, at *Orford* aforesaid, and that he, this deponent, continued as such Boatswain on board the said privateer until the 12th day of January, 1796, when he was put on board of the snow *Clarissa*, captured by the said privateer. And this deponent further saith, that in the afternoon of the 29th day of October, 1795, previous to the said privateer sailing from *Orford*, her crew were mustered on board by *Mr. Osborne*, the officer of customs there, and then had actually on board of and belonging to the said privateer 20

persons, including her captain and officers ; and at the time, last mentioned, the said privateer had actually on board eight carriage guns mounted, together with four swivels, 10 muskets, four blunderbusses, seven cutlasses, several pistols, and an adequate quantity of balls, bullets, cartridges, powder and other ammunition ; and, to the best of this deponent's judgment and belief, was every way properly fitted, armed and manned as a privateer, or letter of marque, for cruising against the enemies' ships and vessels : And this deponent further saith, that the said privateer, or letter of marque, being so properly fitted, armed and manned, and being mustered as aforesaid, the next day after such muster sailed from Orford aforesaid, on a cruise, and steered for the Dutch coast, her crew being in expectation of meeting with some Dutch Surinam ships, which they understood were expected to arrive ; that, cruising off the Texel they met with heavy gales at about W. S. W. which continued four or five days, and blew the said privateer to the coast of Jutland ; that the wind coming more moderate, they beat back to the entrance of the Elbe ; and the said privateer being in distress, having lost both her boom and gaff, her rigging being much damaged, and being in want of water and fresh provisions, they sailed up the Elbe to Hamburg with a fair wind and blowing fresh, when the said privateer repaired and refitted in about a fortnight, and then got down to Cuxhaven, where they laid with the

wind contrary, and bad weather, for about 10 days, when they got to sea ; and while they were cruising off the Texel on the 12th of January, 1796, they gave chase to and captured the snow Clarissa, when this deponent, and three others of the crew of the said privateer, were immediately put on board, and in possession of the said snow by the said captain Abbott, with directions to make for the nearest British port ; and that being so put on board of the said Prize, this deponent, with the said three other persons belonging to the said privateer, steered the Prize for England, leaving the privateer on her cruise off the Texel, and arrived at Shields with the said Prize on the 21st day of the same January. And this deponent saith, that he hath not belonged to the said privateer since he arrived at Shields with the Clarissa, a Prize as aforesaid. WM. JOYCE.

Neither Nunn or Joyce swear to *twenty persons* being on board the Daphne, when Clarissa was captured, and are silent as to the cargo of Tobacco, at that time in the Daphne, and of the relanding the bandannas from her at Barthorp's Hard in Orford Haven, at the commencement of the cruise, and for which writs were issued against both, and served upon one of them (Joyce) who petitioned the Honourable Commissioners of the Customs, to be admitted evidence upon this and various other transactions of the proprietors of the Daphne. They each swear, three others of the Daphne's CREW were put into the Clarissa, when the truth was

that two persons coming as passengers in the *Daphne*, from *Hamburgh* to *England*, were two of the four; but their affidavits as to the muster upon the 29th of *October*, 1795, are gross perjuries; and the testimony they gave on the 5th of *December* 1797, at *Guildhall*, will, from the following minutes of the short hand writer, shew the credit which can be attached to what they had sworn the preceding 30th of *November* at *Harwich*, and for which trouble, *Joyce* received from *Abbott* a note for £60, couched in similar terms to that given by *Abbott* to *Gafman*.

*In the Lord Mayor's Court, Guildhall, Tuesday,
December 5th 1797, before Mr. RECORDER.*

*WILLIAM JOYCE, sworn. Examined by Mr.
KNOWLYS.*

Q. Were you a mariner on board the *Daphne* privateer? A. I was boatswain.

Q. The *Daphne* privateer sailed from *Orford*, did she? A. Yes.

Q. Who was captain of her? A. *Thomas Abbott*.

Q. *Orford* is in *Suffolk*, is it not? A. Yes.

Q. How many men had she when she sailed? A. I cannot rightly tell.

Q. You were boatswain, there, you know you collect the crew? A. No, I never kept no journal.

Q. You were boatswain you know, you were to whistle the crew up, and call all hands aloft? A. No.

Q. Your duty is to pipe all hands, is it not? A. Yes.

Q. How many had you on board? A. I cannot rightly tell.

Q. Give a guess? A. I cannot guess.

Q. I will tell you what, you will get yourself into a scrape if you do not take care, you have made certain Affidavits in the Commons? A. I have not sworn to them.

Q. How many do you believe there were, ten? A. There were more than ten.

Q. How many more? A. I cannot tell.

Q. Were there twelve? A. I cannot say.

Q. Were there twelve? A. I cannot tell how many.

Q. If there were ten you can tell whether there were two more? A. I cannot tell.

Q. What were their names? A. I cannot tell a quarter of their names.

Q. Now I will tell you—was Robert Thatcher there? A. Yes.

Q. What was he on board the ship. A. The gunner, or doctor, I do not know which.

Q. Was John Last there. A. Yes.

Q. William Joyce, that is yourself? A. Yes.

Q. Was Thomas Copping there? A. Yes.

Q. Was Peter Gronswell there? A. Yes.

Q. Was John Johnson there? A. Yes.

Q. What was John Johnson? A. A seaman, I suppose; I do not know what he was.

Q. Robert Nunn was he there ? A. Yes.

Q. Was any other person there besides these ?
A. I cannot tell whether there was or not, it is hard for me to tell how many were on board.

Q. How long were you on board before you took the Prize. A. I am sure I cannot tell within a month or two.

Q. When did you sail from Orford ? A. I think in November.

Q. When did you take the Prize ; you took but one, did you ? A. No.

Q. You can tell when you took the Prize ? A. I am sure I cannot tell the day, I never took no journal.

Q. Was there not a log book to the ship ? A. Yes, but I never kept it.

Q. Did you take any Prize ? A. Yes.

Q. What was her name ? A. The Clarissa.

Q. How many men had you on board when you took the Prize ? A. I am sure I cannot tell exactly.

Q. Had you seven. ? A. More than that.

Q. Will you swear you had ten ? A. No.

Q. Do you not know that you had not ten ? A. I am not certain, there might be twenty.

Q. Had you ten men on board ? A. I will not swear to the number.

Q. Had you ten ? A. I cannot tell how many there were to a man or two.

Q. You can tell me whether there were ten,

more or less? *A.* It is so long since, that I am sure I have forgot.

Q. What was the complement, the number of the ship's crew? *A.* I am sure I do not know.

Q. Was her complement ten? *A.* I am sure I cannot tell.

Q. How many guns had you? *A.* Eight.

Q. Brasses or iron guns? *A.* Four brass and four iron ones.

Q. Do you know Mr. Jacobs? *A.* Yes, I have seen him; I know no more of him.

Q. Do you know what share he had in the vessel? *A.* I cannot tell what share he had in it; he might have a share or he might not.

ROBERT NUNN *sworn.* Examined by Mr. TREBECK.

Q. Were you on board the Daphne privateer?
A. Yes.

Q. Were you on board when she captured the Dutch ship? *A.* Yes.

Q. How long had you been on board before you made the capture? (Hesitates).

Q. How long before you took the ship? *A.* I cannot rightly say how long, I did not keep any account.

Q. Was it a month? *A.* It might be a month or five weeks.

Q. You are doctor on board your own ship, are you not? *A.* No; boatswain.

Q. What time did you go from Orford? A. I cannot say the day.

Q. What time of the year was it? A. I cannot recollect the month.

Q. Was it hot weather or cold? A. It was cold weather.

Q. Whereabouts did you take the ship? A. I cannot tell you that.

Q. What was the ship's complement when you left Orford? A. That I cannot speak to; I do not know how many hands were on board not to one or two.

Q. Do you know within one or two? A. I do not.

Q. Do you know within twenty? A. Yes; between eight and twelve.

Q. How many guns did she carry? A. Eight.

Q. Does a gun require more than one person to work it? A. According to the size of the guns.

Q. According to the size of the guns, did it require more than one man? A. I cannot say.

Q. Had you any engagement when you made this capture? A. We fired two or three guns.

Q. How many men had you when you made this capture, one to each gun? A. More than that.

Q. A good many more? A. There might be eight, ten, or twelve; I cannot speak to one or two.

Q. Should you recollect all their names, if they should be repeated to you? A. I think I should.

Q. Was there a man of the name of Dobie?
A. Yes.

Q. Was there a man of the name of Thatcher?
A. Yes.

Q. Was there a man of the name of Laft?
A. Yes.

Q. Was David Menell there? A. I cannot say.

Q. Was James Kendy there? A. I do not know.

Q. William Joice? A. Yes.

Q. John King? A. I do not know.

Q. John Cooper, was he there? A. I do not know.

Q. Samuel Menell, was he there? A. You mentioned him before.

Q. Thomas Coppin? A. Yes.

Q. Henry Godwin? A. I cannot tell.

Q. Peter Gronswell? A. Yes, I believe he was there.

Q. John Roper? A. I do not know.

Q. Thomas Fagg? A. I do not know.

Q. Was Arthur King there? A. I cannot speak to him.

Q. Thomas Cone? A. I do not know.

Q. William Nunn? A. I do not know.

Q. Was your brother there? A. I have several brothers.

Q. Have you a brother of the name of William Nunn? A. Yes.

Q. Was he there? A. I do not know whether he was or not.

Q. Was your brother there or not? A. He was not there.

Q. Had you any brother on board the ship? A. No.

Q. Was John Johnson there? A. Yes.

Q. George Murphie, was he there? A. No.

Q. Andrew Dunn, was he there? A. I do not know that he was.

Q. Did you ever see him in your life? A. I may have seen him.

Q. But you do not know him? A. I have heard the name.

Q. Did you ever see a man of the name of Andrew Dunn on board that ship? A. He might be aboard, I cannot say.

Q. What was the amount of your prize-money, do you know? A. I do not.

Q. Have you received any of it? A. Yes.

Q. Did you sell your share? A. Yes.

Q. Who did you sell it to? A. A Mr. Maitland.

Q. Did Mr. Maitland buy it for himself or for any other person? A. I cannot say; he brought me the money.

Q. What did he give you for it? A. Seventy-five pounds.

ROBERT THATCHER *sworn. Examined by Mr.*
KNOWLYS.

Q. Were you a mariner on board the Daphne?

A. I was gunner of her.

Q. How many had she on board when she failed?

A. Seven men and a boy.

Q. How many had you on board of the ship's complement when you captured the Dutchman?

A. Seven men, a boy, and two passengers.

Q. Do you know Mr. Jacob? A. I do.

Q. Do you know what share he had in the Daphne? A. I suppose a fifth, by his signing; the owners always sign.

Q. Did you dispose of your share to Mr. Maitland for his own benefit, or for any body else?

A. For Mr. Jacob's I believe.

Q. Who was on board at the time you made the capture? A. Thomas Abbott, master; Rowell Debney was on board, but not when she was captured, he was first lieutenant; there was William Joyce, boatswain; myself, Robert Thatcher, was gunner; there was Thomas Coppin, Robert Nunn, Peter Gronswell, and John Laft; that was the whole crew when we failed.

Q. And who were the persons on board when you took her? A. There was Thomas Abbott, John Laft?

Court. Were they all present when you took her but Debney? A. Debney had left her. Johannes

Johnson was present when she was taken, he was one of the crew when we captured her.

Q. Was he one of the crew when you left Orford? A. No; when we captured her he was.

Q. Where did you take in Johnson, who was not present when you sailed from Orford? A. In Woodbridge Haven.

Q. Was it after you left Orford that you put into Woodbridge and took in Johnson? A. Yes.

By the answers of Joyce and Nunn, to the names of the persons ACTUALLY ON BOARD the Daphne, the affidavits of Robert Thatcher, sworn 29th May and 21st December 1797, are strongly established. He sailed from Orford in the Daphne, and was likewise examined at Guildhall on the 5th of December, and his evidence there given appear in the minutes. Joyce and Nunn also confirm John Roberts' affidavit of 25th January 1798, and that of C. Gasman of 6th of June 1797, who, together with Roberts, was put on board the Daphne, from the Clarissa. They severally affirm, that the crew of the Daphne consists of only EIGHT PERSONS, exclusive of two passengers, who were coming in the Daphne, from Hamburgh to England.

Affidavit of Johannes Johnson, one of the crew of the Daphne. Sworn 30th November 1797.

JOHANNES JOHNSON, of *Woodbridge*, in the county of *Suffolk*, mariner, personally appeared, and being sworn upon the Holy Evangelists, voluntarily maketh oath and faith, that previous to the 27th day of *October*, which was in the year of our Lord 1795, he, this deponent, was shipped as a foremastman or seaman on board of the *Daphne* privateer, or letter of marque, of *Aldborough*, Captain *Thomas Abbott*, Commander, at *Orford*, in the said county; and that he, this deponent, continued as such foremastman or seaman on board of the said privateer until the 22d day of *January*, which was in the year of our Lord 1796, when the said privateer returned from her cruise, and arrived at *Orford* aforesaid; and this deponent was discharged: and this deponent further faith, that in the afternoon of the 29th day of *October* 1795, previous to the said privateer sailing from *Orford*, her crew were mustered on board of and belonging to the said privateer 20 persons, including her captain and officers; and at the time last mentioned, the said privateer had actually on board eight carriage guns mounted, together with four swivels, 10 muskets, four blunderbusses, seven cutlasses, several pistols, and an adequate quantity of balls, bullets, cartridges, powder, and other ammunition; and, to the best of this deponent's judgment and belief,

was every way properly fitted, armed and manned as a privateer or letter of marque for cruising against the enemies' ships and vessels: and this deponent further saith, that the said privateer or letter of marque being so properly fitted, armed and manned, and being mustered as aforesaid, the next day after such muster, sailed from Orford aforesaid, on a cruise, and steered for the Dutch coast, her crew being in expectation of meeting with some of the Dutch Surinam ships, which he understood were expected to arrive; that cruising off the Texel, they met with heavy gales at about W. S. W. which continued for four or five days, and blew the said privateer down to the coast of Jutland; that the wind becoming more moderate, they beat back to the entrance of the Elbe; and the said privateer being in distress, having lost both her boom and gaff, her rigging being much damaged, and being in want of water and fresh provisions, they sailed up the Elbe to Hamburgh with a fair wind and blowing fresh, where the said privateer repaired and refitted in about a fortnight, and then got down to Cuxhaven, where they laid with the wind contrary, and bad weather, for about 10 days, when they got to sea; and while they were cruising off the Texel on the 12th of January 1796, they gave chase to and captured the snow Clarissa, when four of the crew of the said privateer were immediately put on board of, and in possession of the said snow by the said Captain Abbott, with di-

rections to make for the nearest British port: and this deponent further saith, that from the time of leaving Orford Haven as aforesaid, until the capture of the said snow Clarissa, the said privateer was not in any British port; and that the said privateer was not *employed in smuggling at any time* during the *deponent's sailing on board of*, and belonging to her as aforesaid, neither were there *on board any Contraband Goods at the time of the capture of the said snow Clarissa, or at any other time during the cruize of the said privateer, to this deponent's knowledge or belief.*

JOHANNES JOHNSON.

Johnson, no more than Joyce or Nunn, swears to *twenty persons* being on board the Daphne at the time of the Clarissa's capture; but he makes up for this deficiency, by swearing, that the Daphne was never employed in smuggling whilst he sailed in her, and particularly had no *contraband* goods on board when the privateer took the Clarissa. Now it so happens that Mr. Johnson was convicted in the Court of Exchequer, at the sittings after Trinity Term last, in the penalty of 2100l. for assisting Captain Abbott and the owners of the Daphne to land the *identical cargo* of tobacco, tobacco sand, and snuff, at Ramsholt Dock, in Woodbridge Haven, in the night of the 16th January 1796, which the Daphne had on board when she took the Clarissa, on the 12th of January. Johnson is likewise per-

jured in his statement of the muster upon the 29th of October 1795 ; but then it is to be considered, he is brother-in-law to Captain Abbott, and whether he had ever read the inimitable Fielding's Life of Jonathan Wild or not, Johnson seems to have imbibed Mr. Snap's maxim, " that the man was a pitiful fellow who would stick at a little RAPPING for his friend."

Affidavit of Thomas Abbott, commander of the Daphne, with Exhibit annexed, marked (A). Sworn 30th November 1797.

Appeared personally THOMAS ABBOTT, commander of the private ship of war Daphne, and refering to the papers hereunto annexed, marked with the letter (A), made oath that the same is a true and original account or muster of the crew of the said private ship of war the Daphne, on the 29th day of October 1795, before the proper officers at Orford; that the said privateer sailed from Orford on the day following, as soon as the weather would permit, upon a cruize, having on board all the persons mentioned in the said annexed paper; and he expressly made oath that the said muster was in no respect collusive, or intended to evade the act of parliament for the regulations of private ships of war, and continued cruising until the 3d day of December, when he was forced to go to Hamburgh to refit, on account of the

heavy gales of wind which the said private ship of war Daphne endured in the North Sea, particularly on the 23d day of November 1795, at eight at night, when the said privateer shipped a very heavy sea, which laid her on her beam ends, threw all the ballast into the bulge, washed one man overboard, and upset the scuttle butts, which contained the whole of the water on board, save two gallons; that the weather continuing still boisterous, they were unable to make land, and were obliged to stand out to sea: and this deponent further saith, that they were in this perilous situation from the said 23d day of November, to the 1st of December, without water, save what they caught in the sails, blankets, and other conveniences; that when the weather got a little more moderate, he this deponent undertook, for the saving of his life, and the lives of the crew, to distil salt water into fresh, which he performed, but not in sufficient quantities to alleviate the almost perishing state of his crew; that the most part of them kept themselves alive by chewing tea, potatoes, and lead; that on the 1st day of December, at eleven, A. M. this deponent descried a sail, which he came up with; that the sea was then very high, and none of his men dared venture to board her; that he, this deponent, after entreating, for some length of time, his crew to go with him on board the said vessel, he prevailed on three of his said crew to accompany him in his boat, which he accordingly accomplished, and the

said vessel proved to be a Danish vessel from the
 Streights, bound to Bremen; that he, this depo-
 nent, made known to the master of the said Danish
 vessel the distress of himself and crew, and asked
 his assistance to alleviate their wants, by giving
 them water, offering to give any sum he required
 for the same; but the master of said vessel humane-
 ly and generously gave to him, this deponent, two
 anchors of water, and a cask of wine, with which
 he got safe into the Elbe, on the 3d of December,
 as aforesaid, the private ship of war having lost her
 main-boom and gaff-splits, her main-sail and gib,
 and was in every respect a wreck: that this depo-
 nent having made a signal for a pilot to come on
 board, to advise with him as to the repairs of the
 said vessel, when he informed this deponent that it
 would be necessary for him to go to Hamburgh to
 refit, which he accordingly did, and arrived there
 on 5th of said month of December, where this de-
 ponent recruited himself and Crew, and refitted
 said privateer with all possible dispatch, he this de-
 ponent, being of opinion that it was about the
 time for the Surinam vessels to be expected in Hol-
 land; that the said privateer was got ready for sea,
 and that he then sailed in further prosecution
 of his cruize, and therein captured the Clarissa;
 and this deponent further saith, that from the time
 of leaving Orford Haven, as aforesaid, until the
 capture of the Clarissa, he was not in any British
 port: and he lastly saith, that he hath not at any
 time, either directly or indirectly, employed the

saïd privateer in smuggling, and there were no Contraband Goods on board the same at the time of the capture of the Clarissa, or at any other time during the cruize of the saïd privateer.

(A.)

Orford, October 29th, 1795.

PORT OF ALDBOROUGH.

An ACCOUNT of the MEN and GUNS belonging to the DAPHNE, date as above.

Thomas Abbott, master; Rowell Dobhey, first lieutenant; Robert Thacker, second ditto; John Last, prize-master; David Mannell, gunner; James Cendy, boatswain; William Joyce, seaman; John King, ditto; John Cooper, ditto; James Mannell, ditto; Thomas Coppin, ditto; Henry Goodwin, ditto; Peter Gronswell, ordinary seaman; John Roper, ditto; Thomas Fagg, landsman; Arthur King, ditto; Thomas Cone, ditto; William Nunn, ditto; John Johnson, ditto; George Murphy, boy; Andrew Dunn, ditto. Eight carriage guns, two pounders, four swivels, seven muskets, ten cutlasses.

(Signed) ROBERT OSBORNE.

The foregoing affidavit of Abbott, contains a series of the most barefaced perjuries, and which were

endeavoured to be substantiated by forgery. Abbott swears, what none of his crew (perjured as they are) chose to corroborate, that the whole *twenty* persons whose names he specifies in an annexed muster, dated 29th of October 1795, sailed from Orford the day after the muster in the Daphne; that the muster is a true and original account of the crew, and *expressly makes oath*, that the said muster was in no respect *collusive*, or *intended to evade the act of parliament* for the regulations of private ships of war.

Application has been made to Mr. Osborne, the officer at Orford, who denies having mustered the crew of the Daphne on the 29th October 1795, or having signed any such muster; in proof of this, and of the attempt to bribe Mr. Osborne to acknowledge this forged muster, we insert the affidavit of Messrs. Brundrett and Sutton.

Appeared personally JONATHAN BRUNDRETT, of the *Inner Temple, London*, gentleman, and DANIEL SUTTON, junior, of *Colchester*, in the county of Essex, gentleman, and make oath, that on Wednesday, the 16th day of this instant month of January, they, these deponents, went to Orford, in the county of Suffolk, and applied to Robert Osborne, landwaiter and searcher of the Customs at that place, and shewed to him the paper writing hereunto annexed, marked (A), purporting to be the copy of an original account or muster of the

crew of the ship *Daphne*, Thomas Abbott commander, on the 29th day of October 1795, and referred to in the affidavit of the said Thomas Abbott, sworn the 30th day of November 1797, a copy whereof is also hereunto annexed, marked (B): and they, these deponents, further make oath, that the paper writing hereunto annexed, marked (C), contains the substance of the conversation that passed between them, these deponents, and the said Robert Osborne.

DANIEL SUTTON, Jun.

JONATHAN BRUNDRETT.

*The said Daniel Sutton, junior,
was sworn at Colchester afore-
said, the 29th day of January
1799, before me,*

WILLIAM FRANCIS, *a Master Extra
in the High Court of Chancery.*

*On the 31st January 1799, the
said Jonathan Brundett was
duly sworn to the truth of the
affidavit, before me,*

J. SEWELL, *Surr.*

The EXHIBIT A, referred to in the annexed Affidavit.

WILLIAM FRANCIS.

(A).

Orford, October 29th 1795.

PORT OF ALDBOROUGH.

*An ACCOUNT of the MEN and GUNS on board and
belonging to the DAPHNE, date as above.*

Thomas Abbott, master; Rowell Dobhey, first lieutenant; Robert Thacker, second ditto; John Laft, prize-master; David Mannell, gunner; James Cendy, boatswain; William Joyce, seaman; John King, ditto; John Cooper, ditto; Samuel Mannell, ditto; Thomas Coppin, ditto; Henry Godwin, ditto; Peter Gronswell, ordinary seaman; John Roper, ditto; Thomas Fagg, landsman; Arthur King, ditto; Thomas Cone, ditto; William Nunn, ditto; John Johnson, ditto; George Murphy, boy; Andrew Dunn, ditto. Eight carriage guns, two pounders, four fwivels, seven muskets, ten cutlasses.

(Signed) ROBERT OSBORNE.

*Affidavit of Thomas Abbott, commander of the Daphne,
marked (B). Sworn 30th November 1797.*

Appeared personally THOMAS ABBOTT, commander of the private ship of war Daphne, and referring to the papers hereunto annexed, marked

with the letter (A), made oath, that the same is a true and original account or muster of the crew of the said private ship of war the Daphne, on the 29th day of October 1795, before the proper officers at Orford; that the said privateer sailed from Orford on the day following, as soon as the weather would permit, upon a cruize, having on board all persons mentioned in the said annexed paper; and he *expressly made oath, that the said muster was in no respect collusive, or intended to evade the act of parliament* for the regulations of private ships of war, and continued cruising until the 3d day of December, when he was forced to go to Hamburg to refit, on account of the heavy gales of wind which the said private ship of war Daphne endured in the North Sea, particularly on the 23d day of November 1795, at eight at night, when the said privateer shipped a very heavy sea, which laid her on her beam ends, threw all the ballast into the bulge, washed one man overboard, and upset the scuttle butts, which contained the whole of the water on board, save two gallons; that the weather continuing still boisterous, they were unable to make land, and were obliged to stand out to sea: and this deponent further saith, that they were in this perilous situation from the said 23d day of November to the 1st of December, without water, save what they caught in the sails, blankets, and other conveniences; that when the weather got a little more moderate, he, this deponent, un-

dertook, for the saving of his life, and the lives of the crew, to distil salt water into fresh, which he performed, but not in sufficient quantities to alleviate the almost perishing state of his crew; that the most part of them kept themselves alive by chewing tea, potatoes, and lead; that on the 1st day of December, at eleven A. M. this deponent descried a sail, which he came up with; that the sea was then very high, and none of his men dared venture to board her; that he, this deponent, after entreating for some length of time his crew to go with him on board the said vessel, he prevailed on three of his said crew to accompany him in his boat, which he accordingly accomplished, and the said vessel proved to be a Danish vessel from the Streights, bound to Bremen; that he, this deponent, made known to the master of the said Danish vessel the distress of himself and crew, and asked his assistance to alleviate their wants. by giving them water, offering to give any sum he required for the same; but the master of said vessel humanely and generously gave to him, this deponent, two ankers of water, and a cask of wine, with which he got safe into the Elbe, on the 3d of December, as aforesaid, the private ship of war having lost her main-boom and gaff-splits, her main-sail and gib, and was in every respect a wreck: that this deponent having made a signal for a pilot to come on board, to advise with him as to the repairs of the said vessel, when he informed this deponent that it would be necessary for him to go

to Hamburgh to refit, which he accordingly did, and arrived there on the 5th of the said month of December, where this deponent recruited himself and crew, and refitted said privateer with all possible dispatch, he, this deponent, being of opinion that it was about the time for the Surinam vessels to be expected in Holland; that the said privateer was got ready for sea, and that he then sailed in further prosecution of his cruize, and therein captured the Clarissa: and this deponent further saith, that from the time of leaving Orford Haven, as aforesaid, until the capture of the Clarissa, he was not in any British port: and he lastly saith, that he hath not at any time, either *directly or indirectly*, employed the said privateer in *smuggling*, and there were no *contraband goods on board the same at the time of the capture of the Clarissa*, or at any other time during the the cruize of the said privateer.

(A).

Orford, October 29th 1795.

PORT OF ALDBOROUGH.

An ACCOUNT of the MEN and GUNS on board, belonging to the DAPHNE, dated as above.

Thomas Abbott, master; Rowell Dobey, first lieutenant; Robert Thacker, second ditto; John Last, prize-master; David Mannell, gunner; James Cendy, boatswain; William Joyce, sea-

man; John King, ditto; John Cooper, ditto; James Mannell, ditto; Thomas Coppin, ditto; Henry Goodwin, ditto; Peter Gronswell, ordinary seaman; John Roper, ditto; Thomas Fagg, landsman; Arthur King, ditto; Thomas Cone, ditto; William Nunn, ditto; John Johnson, ditto; George Murphy, boy; Andrew Dunn, ditto. Eight carriage guns, two pounders, four swivels, seven muskets, ten cutlasses.

(Signed) ROBERT OSBORNE.

(C)

Wednesday, Orford, 16th of January, 1799,

Upon applying to Robert Osborne, Landwaiter and Searcher of Orford, I Jonathan Brundrett, then produced him a paper (copy of a muster), and asked him, if he had ever signed such a one, he answered, after referring to a memorandum, which he produced, and which agreed therewith, except in the spelling of the names of several of the men, that he never mustered the crew of the *Daphne*, or took an account of her men and guns on the 29th of October, 1795, nor before the capture of the ship *Clarissa*, (a Surinam vessel) by the *Daphne*; he further added, that two gentlemen*, applied to him at

* These were Messrs. Jacobs and Healey two of the owners of the *Daphne*, and who, if not the forgers of Osborne's name, were certainly privy to the forgery; and fearful of the consequences, they would not have intersted themselves in trying to bribe Osborne to its concealment, had they not been implicated in the act. Not to mention the subornation of perjury which this attempt brings directly home to these two Owners.

a public house at Harwich, and shewed him a piece of paper, purporting to be a muster or account of the men and guns on board belonging to the *Daphne*, on the said 29th day of October, 1795, and it appeared to be signed, Robert Osborne, and agreed with the paper, marked A. as appeared from the copy or memorandum he made, as before mentioned, they asked him, if it was not his hand writing, to which he answered, that it was not, and that he never signed his name but with a long f, observing that that was written with a short one; they then asked him to draw the pen over it himself, but he refused so to do, knowing that he had not mustered the men and guns of the *Daphne* on the day mentioned in the paper produced to him, they further entreated him to do so, and offered him a considerable sum of money which he refused to accept, and told them he would not on any account. To shew them the manner of his hand-writing, he signed his name upon a bit of paper in pencil, which he got from them back, they then parted, he shewed us an office book belonging to the port of Aldborough, in which were entries made and signed by himself, to shew us that he had for many years signed the same with a long f. We requested him to make an affidavit of the above fact, but he declined doing so, although he said he would swear the same in any court of justice when called upon.

Witness	Robert Osborne	The exhibit C. re-
D. S. Jun.	J. B.	ferred to in the
	annexed affidavit,	WILLIAM FRANCIS,

The conclusion of Abbott's affidavit, states, he has never directly or indirectly employed the *Daphne* in smuggling, and that there was no contraband goods on board the privateer at the time of the capture of the *Clarissa*, or at any other time during the *Daphne's* cruize. This is a second perjury.—Without adverting to the *Daphne's* register, to shew the various endorsements to commanders, put into her solely for the purpose of clandestine imports and exports, (for she did business both inwards and outwards) the verdict obtained at the suit of the crown against Johnson, his brother-in-law, in the Court of Exchequer, for assisting Abbott and the owners of the *Daphne* to land the **VERY CARGO** of tobacco, &c. with which the *Daphne* **WAS LADEN**, when the *Clarissa* was captured, and within *four days* of that capture, exhibits in glaring and infamous colours, the drift, it may almost be said, the despair of his testimony.

To a man thus guilty of wilful perjury himself, the corrupt subornation of others to the same crime is a natural step. The means Abbott adopted to procure Gasman and Joyce's affidavits, are two instances already described, by the notes he gave, the provision he made for Gasman as master of one of his smuggling vessels, and the money he paid for them.

It is insisted upon in the captor's reply to the protest, that prior to any claim on the part of the Admiralty, some decision should have been had in the courts of ~~the~~ law, pronouncing that the *Daphne* was guilty, and had not complied with the provisions of the act of 33 Geo. III. cap. 66.

In Hilary Term, 1797, an action was brought against Thomas Abbott, the Commander of the *Daphne*, for the offence of sailing with an inferior force. And also actions brought at the same time, against Richard Arnold, George Cullum, and Abel Brown, the sureties for the *Daphne's* letters of marque, but such actions were not proceeded in, owing to the death of one of the defendants and the plaintiff. However in Easter Term last, another action was brought in the Court of King's Bench, against Captain Abbott upon the penal statute, for sailing in the *Daphne* with an inferior force, at the same time the *Clarissa* was captured. A declaration was filed against him in Trinity Term last, and the regular notice served upon him of such declaration being filed, but the defendant Abbott not having pleaded to the declaration, judgment has been signed against him by default.

It may be no improper appendix to the remarks upon Captain Abbott's affidavit, to observe, that by the following letter, dated 28th of April, 1799, and which was delivered to Mr. Bayford upon the 8th of May, Abbott had ordered his proctor to relinquish his claim. What authority the proctor

can have to continue the suit after such relinquishment, (as Abbott is the only person of whom the court has cognizance) cannot be ascertained, unless it proceeds from Jeremiah Cullum, who in his assumed character of *sole owner* has probably issued his orders for further contest, an attempt, which in the opinion of one of the first counsel, is absurdly courting defeat and disgrace.

SIR,

Finding I shall not be able to contradict the allegations made by the Admiralty proctor in the cause of the *Clarissa*, Supply Simmonds, master, I am to desire you will not give any further opposition to the sentence of the Court of Admiralty (condemning the property as a prize to the *Daphne*) being reversed, but that you will consent to the property being condemned as a droit of Admiralty.

I am, your humble servant,

28th of April, 1799.

THOMAS ABBOTT.

To M. BAYFORD, Esq.

Doctors Commons, London.

Further Affidavits exhibited by Gostling, in
March 1798.

*Further Affidavit of Robert Thatcher. Sworn 21st
Dec. 1797.*

Appeared personally ROBERT THATCHER, of
Battle, in the county of Suffex, late a mariner on

board the private ship or vessel of war the *Daphne*, whereof Thomas Abbott was commander, and made oath, that he has perused the copy of an affidavit, which appears to have been sworn to by the said Thomas Abbott, on the 30th of last month, and also the copy of an exhibit, marked (A), annexed thereto, in which affidavit the said Thomas Abbott hath, among other things, deposed as follows : “ Referring to the paper annexed, marked “ with the letter (A.), made oath that the same is “ a true and original account or muster of the crew “ of the said private ship of war the *Daphne*, on “ the 29th day of October 1795, before the proper “ officers at Orford ; that the said privateer sailed “ from Orford on the day following, as soon as the “ weather would permit, upon a cruize, having on “ board all the persons mentioned in the said annexed paper ; and he expressly made oath that the “ said muster was in no respect collusive, or intended to evade the act of parliament for the “ regulation of private ships of war.” Now this deponent maketh oath, that he verily believes what is so deposed to by the said Thomas Abbott, in regard to the crew of the said ship *Daphne* having been mustered, to be false, neither this deponent, nor, as this deponent verily believes, the rest of the crew of the said ship, having ever been mustered, as deposed to by the said Thomas Abbott ; and that this deponent verily believes the said exhibit, marked (A.) to be a fraudulent and fictitious muster of the

crew of said ship *Daphne*. And this deponent further maketh oath, that what is deposed to by the said Thomas Abbott, in the said affidavit, that the said ship the *Daphne* sailed from Orford the 30th day of October 1795, upon a cruize, with the twenty-one persons on board, whose names are specified and set forth in the said exhibit, marked (A.) is false, the fact being that the said vessel the *Daphne*, when she so sailed on said cruize from Orford, aforesaid, had no other person whatever on board her but the following ; to wit, the said Thomas Abbott, the commander ; Rowell Debney, first lieutenant : William Joyce, boatswain ; Robert Nunn, John Last, Thomas Coppin, Peter Greenland, otherwise Gronswell, a boy ; Johannes Johnson (taken in at Woodbridge Haven) : and this deponent, who was gunner of the said vessel, and not, as stated in the said exhibit, marked (A), the second lieutenant of said ship. And this deponent further maketh oath, that the said ship *Daphne*, after having sailed some days, was obliged to put back again, by reason of contrary winds, when Rowell Debney, the first lieutenant, left the said ship *Daphne*, and she sailed again on her cruize on or about the 10th of November 1795 ; her crew, as aforesaid, then consisted of the said Thomas Abbott, William Joyce, Robert Nunn, John Last, Thomas Coppin, Johannes Johnson, Peter Greenland, otherwise Gronswell, and this deponent, and no other person whatever ; that the *Daphne* afterwards went

to Hamburgh, from which place she sailed about the latter end of December following, with the said Captain Abbott, six men, and a boy, as aforesaid, with two persons whose names were Samuel Davis and Edmund Pleyer, who came on board as passengers from Hamburgh to England ; that on or about the 12th day of January 1796, the said ship Daphne captured the said ship the Clarissa, when Robert Nunn and William Joyce, two of the crew of the Daphne, with the said Samuel Davis and Edmund Pleyer, were put on board, with directions to take her to the first English port they could make, and three of the crew of the Clarissa were brought on board the Daphne, and the Daphne then proceeded to Woodbridge Haven. Lastly, this deponent maketh oath and saith, that he hath never received any sum or sums of money, as a consideration for making the present or the former affidavit, sworn to by this deponent on or about the 29th day of May last, nor hath this deponent been promised a part of any benefit that might result from the present suit, but that this deponent voluntarily made the said affidavit.

ROBERT THATCHER.

Affidavit of John Roberts, late one of the Crew of the Clarissa. Sworn 25th Jan. 1798.

Appeared personally JOHN ROBERTS, mariner, on board his Majesty's ship Garland, John Clarke

Searle, Esq. commander, but late a mariner on board the said merchant ship or vessel the Clarissa, Supply Simmonds, master, and made oath, that the said ship the Clarissa, in the prosecution of her voyage from Surinam to Amsterdam, was, on or about the 12th day of January 1796, seized and taken by the private ship or vessel of war the Daphne, whereof Thomas Abbott was commander. And this deponent further maketh oath, that he, together with Christian Gafman, and Alexander Macleod, on the capture of the said ship, were taken out and put on board the said ship Daphne, and that Edmund Pleyer and Samuel Davis, whom he hath been informed and believes were passengers on board the said ship Daphne, and also William Joyce and Robert Nunn, two of the crew of the said ship Daphne, were put on board the said captured ship the Clarissa, with orders to bring her into England. And this deponent further made oath, that on his so going on board the said ship Daphne, her crew consisted of Thomas Abbott, the captain; John Last, alias Great Jack; Robert Thatcher, Johannes Johnson, Thomas Coppin, and Peter, a boy, and no more, who, together with the said William Joyce and Robert Nunn, made eight persons, exclusive of the said two passengers. And this deponent further made oath, that the said ship Daphne mounted six carriage guns, and no more, and had no swivels. Lastly, this deponent made oath, that the said ship the Daphne then proceeded

to Woodbridge Haven, where she arrived on or about the 16th day of January 1796.

The mark of



JOHN ROBERTS.

Act of Court extending Protest.

8th June 1798.

ON which day, * Bayford appeared for Thomas Abbott, the commander of the private ship of war Daphne, the captor of the ship and cargo in question, and one of the parties appellate, but nevertheless under protestation, and for the sole purpose of saving his contumacy, and under such his protest alleged, that the said ship and cargo were proceeded against, as usual, in the High Court of Admiralty of England, and that divers claims were given in the said court for the ship and various parts of the cargo; and that such cause came on for hearing on the 21st day of July 1796, when the Judge was pleased to condemn one-fourth part of the ship, the goods claimed as the property of George Henry Apthorpe, and the private adventure of the master; and also by further decree condemned the unclaimed part of the cargo as prize to the captors; and that appeals have been prosecuted by the persons claiming as

* Captor's Protest.

owners from that part of the said sentence which condemns the part of the ship and goods claimed ; that the time allowed by law for the prosecution of appeals and giving claims in prize causes fully elapsed, and a year and a day expired after the said sentence, without any appeal having been interposed from the condemnation of the unclaimed part of the cargo, or any claim given in respect to the same ; and that after such time had so elapsed, the proceeds arising from the sales of the said unclaimed part of the said cargo, so as aforesaid condemned, excepting a sum retained on account of a question reserved as to freight, were distributed according to law, to and amongst the owner, officers, and crew of the said private ship of war the *Daphne* ; that no appeal was interposed by the said Gostling from any part of the said sentence within the said legal time ; and in verification of what the said Bayford so alleged, he prayed leave to refer to certain affidavits by him exhibited in this cause, and now remaining in the Registry of this court ; and he humbly submitted that, under the circumstances herein-before stated, he the said Gostling cannot now legally proceed in an appeal against the said sentence ; wherefore he prayed their Lordships would be pleased to dismiss his said party from the inhibition and citation served on him in this cause, and that otherwise right and justice may be effectually done and administered to him and his party in the premises.

* In the presence of Gostling dissenting, denying the allegations of Bayford to be true, and alleging, that on the 20th day of March last, Gostling then moved their Lordships by his Counsel to give him leave to prosecute the present appeal, when Bayford's party objected thereto, among other things, on the suggestion that Gostling had not prosecuted the same within the time allowed by law ; that it then appeared to their Lordships, as was the truth and fact, that on the 9th day of March 1797, long before the time allowed for appealing was expired, Gostling's claim was prepared and settled by his Counsel, and left in the Registry of this court, and that Charles Bicknell, Esq. the solicitor of the Admiralty (who had been reported as sufficient bail on Gostling's giving in said claim, and appealing) attended in the Registry of this court to give the said bail, when the Registrar did not think it proper to permit the said claim to be given in, and the appeal to be prosecuted, without the leave of their Lordships ; that their Lordships, on the aforesaid 20th day of March last, were pleased, after hearing Counsel on both sides, to give leave to Gostling to prosecute the said appeal ; that Gostling accordingly prosecuted the same, and took out the usual inhibition and citation ; that the said Bayford hath since appeared thereto for the respondent, but under the aforesaid pretended protest, which the said Gostling humbly

* Gostling's answer thereto.

submitted to be unfounded ; wherefore the said Gostling prayed their Lordships would be pleased to over-rule the said pretended protest, and to assign the said Bayford to appear absolutely, and to condemn his the said Bayford's party in the expence of said protest. * In the presence of Bayford dissenting, and alleging that at the time when the motion was made by Gostling for leave to prosecute his said appeal, such motion was opposed, on the ground that the said Gostling was not entitled to proceed, on the supposition of a forfeiture of the Prize in question under the prize act, upon account of an offence against the provisions of the said act, committed by the said Bayford's parties, without having first obtained a decision by some competent court, pronouncing that they had been guilty of such offence, and that the fact of the said appeal not being interposed and prosecuted in due time, did not then come at all under the consideration of the court ; and the said Bayford further alleged, that searches were at different times in the months of June and July, in the year of our Lord 1797, made in the Registry of this court, and more particularly on the 21st and 22d days of the month of July, in order to ascertain whether any and what appeal or appeals had been interposed and prosecuted in this cause, and that from such searches it appeared, as the truth and fact was and is, that the only appeal which had been prosecuted

* Captor's reply.

was one on the part and behalf of George Henry Apthorp, appealing from that part of the decree of the Right Worshipful the Judge of the High Court of Admiralty of England, bearing date, as aforesaid, on the 21st day of July, 1796, which condemned one-fourth part of the said ship, and also the goods claimed by him, the said George Henry Apthorpe, as his own property; and he further alleged, that no notice of the intended application to this court for an inhibition was given by Gostling to his, Bayford's, said party, or to his Proctor or Agent, or to any person acting on his behalf, in respect to the Prize in question, till on or after the 30th day of August following, and in verification of what he so alleged, he craved leave to refer to an affidavit to be by him exhibited, and to the original and first notice respecting the Prosecution of the said Gostling's Appeal, given by Gostling to James Hefeltine, Esq. the original proctor of the said Thomas Abbott, in the court below, and which is signed by the said Gostling, and bears date on the 30th day of August, 1797, being nearly six weeks after the time allowed by law for the prosecution of any appeal had elapsed; and the said Bayford therefore humbly submits, that he ought now to be allowed to protest against the irregularity of Gostling's proceedings, in applying to this court for an inhibition after the time allowed by law for prosecuting his appeal had elapsed, wherefore he prayed as before. In the presence of Gostling *

* Gostling's Rejoinder.

dissenting, denying the allegations of Bayford to be true, and more especially denying to be true, what is alleged by the said Bayford, to wit, that at the time of the aforesaid motion for Gostling to be permitted to prosecute his said appeal, the fact of the said appeal not being prosecuted in due time, did not at all then come under the consideration of the court, the truth and fact being, that at the time of the aforesaid motion it was objected on the part of the said Bayford's Client, that Gostling had not prosecuted the said appeal within the time allowed by law, when, in order to disprove such objection, the original act of court prepared for prosecuting the said appeal, with the claim and affidavit of the said Gostling, and the original report made by the officer of the court, dated the 9th day of March, 1797, to the sufficiency of the said Charles Bicknell, Esq. as the Security to be given by Gostling on prosecuting his said appeal, were attended with, and produced to their Lordships; which said Act, Claim, Affidavit, and Report, from the time of their being so prepared, remained in the Registry of this Court; and the said Gostling further alleged, that in regard to the Search alleged to have been made by Bayford, it appears from the acts of this court, that any such Search was inaccurately made, and that no Reliance is due thereto, the Fact, as alleged by the said Bayford, to wit, that on such search only one Appeal had been prosecuted in the said Cause, not being true, the Truth and Fact being, that be-

fides the act, claim, affidavit, and report remaining in the Registry of this Court, on prosecuting the Appeal of the said Gostling, another Appeal had been prosecuted in the said cause by William Burges, on behalf of William Brown and others, as by the Acts of this Court, Reference being thereunto had, more fully appears; wherefore the said Gostling alleged and prayed as before.

Bayford dissenting, and alleging as before, that no appeal was interposed with respect to certain unclaimed parts of the Cargo, so as aforesaid condemned, and particularly that no such appeal was interposed by the said Gostling within the Period allowed by law; and that the said Objection has not been before submitted to the Consideration of the Court; wherefore he prayed as before. In the presence of Gostling dissenting, denying the allegations of Bayford to be true, and alleging and praying as before.

BAYFORD.

GOSTLING.

Claim and Affidavit of George Gostling. Sworn 27th of March, 1798, and ~~added~~ added to as the copy which was sent with his Letter to Hefeltine, dated 30th of August 1797.

The claim of GEORGE GOSTLING, on behalf of our Sovereign Lord the King, in his office of Admiralty, for one-fourth part of the said ship, her

tackle, apparel, and furniture, for the Master's pretended private adventure, and the goods, wares and merchandizes laden therein, taken and seized by the Ship or Vessel called the *Daphne*, Thomas Abbott Commander, in virtue of a pretended commission or Letter of Marque granted to the said Thomas Abbott, which commission or letter of marque, at the time of the Capture of the said ship and goods was null and void, on account of the said Thomas Abbott having proceeded upon a Cruize with the said ship or vessel the *Daphne*, with a force inferior to the force specified in the commission or letter of marque granted to him, and that by reason thereof the said ship and goods, of right, became, and were, and are, Droits and Perquisites of our Sovereign Lord the King, in his office of Admiralty: for the said one-fourth part of the said ship, her tackle, apparel, and furniture, the said pretended adventure; and for all and singular the goods, wares and merchandises laden therein, and therewith taken and seized; and for all costs, damages, and expences that have arisen, or shall or may arise, and be due in the premises.

GEO. GOSTLING.

WM. SCOTT.

WM. BATTINE.

Appeared personally George Gostling, of Doctors Commons, Procurator General of our Sovereign Lord the King, in his office of Admiralty, and deposeth and saith, that he believes the Claim hereunto annexed to be true, and that he shall be able to make due Proof thereof.

GEO. GOSTLING.

**Further Affidavit made on the Part of the said
Thomas Abbott, in Support of his Protest.**

*Affidavit of George Buckton and Henry Buckton. Sworn
14th of March, 1799.*

On which day appeared personally, George Buckton, of Doctors Commons, London, gentleman; and Henry Buckton, of the same place, gentleman, who jointly and severally made oath, that they, these deponents, were, during the year 1797, and for some time before, had been clerks in the office of James Hefeltine, Esq. the Proctor in the court below, for Thomas Abbott, commander of the private ship of war Daphne; and that having, in the months of June and July in the said year, received directions and instructions to search and inquire in the Registry of this Court, in order to ascertain whether any, and what Appeals, had been prosecuted from the Decree made and given on the 21st day of July, in the year of our Lord 1796, by the then Judge of the High Court of Admiralty of England; these deponents did, several times in the said months of June and July, in the year aforesaid, but more particularly on the 21st and 22d days of the said month of July, attend in the Registry of this Court, and make careful and strict Search whether any such Appeal or Appeals had been prosecuted; and they then ascertained, by such search, that no appeal whatever had been

prosecuted in the said cause, save and except an appeal interposed on the part and behalf of George Henry Apthorpe, Claimant of one-fourth part of the said ship, and of certain goods on board the same, as his own property, and that they did not find, on such search, any notice of any other appeal, or of an intention of any other party to appeal ; and these deponents accordingly acquainted the parties who applied at the office of the said Mr. Heselstine, on behalf of the said Thomas Abbott, and others concerned in the said private ship of war the Daphne, that no appeal had been prosecuted, save and except as aforesaid ; and further informed them, that the time allowed by law for the prosecution aforesaid of any further appeals had expired.

G. BUCKTON.

H. BUCKTON.

The Affidavit of Messrs. Bucktons requires no comment, the office of the Registry of the Court of Admiralty is a public one, wherein Claims are not usually withheld from those who come to search for them. The Rejoinder of Mr. Gostling, has expressed every thing needful upon this point, and the Decision of their Lordships confirms their sense of the propriety of his proceedings. It was contended by the Counsel for the Captors at the last hearing before their Lordships, that by the common law of the Admiralty, as well as by express Statute, all persons were barred, unless they claimed within a year and a

day, for otherwise Captors would never be certain of the benefit of their Prizes. On the other side (exclusive of the Crown being in this instance within the time specified), it was insisted, that the limitation, with respect to making Claims, was confined to the parties interested, and by no means went to preclude the Right of the King, if it was afterwards discovered the Captors had been guilty of any mal-practices, that vitiated their commission of Marque and Reprisal. The Master of the Rolls, and Sir William Scott, were both of opinion, that the Restriction of a Year and a Day for preferring claims, had no reference to claims on the part of the Crown. If the Crown was to be barred by not claiming within a limited period, Captors who were conscious of having done an act, by which they had forfeited their right to retain their Prizes, would, by carrying them abroad, getting them condemned in our Foreign Maritime Courts, and keeping the Proceedings secret a year and a day, secure to themselves a good Title to that which justly belonged to the Public. Upon this ground, (independent of the *Daphne's* illegal Conduct in Smuggling), the Claim on the part of the Admiralty was, upon the 20th of July 1799, fully established.

On the 24th of January 1800, Thomas Abbott, late Commander of the *Daphne*, appeared personally before the Right Honourable the Lords of

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Appeals,

Appeals, and gave an Affirmative Issue to the Libel. After Abbott gave an Affirmative Issue, an Appearance was entered for Jeremiah Cullum, as the Owner of the Daphne, which was afterwards withdrawn; and on the 8th of March following, the Unclaimed Part of the Cargo was condemned as a Droit of Admiralty; and on the 21st of June last, One Fourth of the Ship, and the remainder of the Cargo, which had been claimed as American Property, were also condemned as Droits of Admiralty—the Three-fourths of the Ship were restored.—Upon the 27th of February 1800, the following Petition and Letter was addressed and delivered to the Honourable the Commissioners of his Majesty's Customs, from Captain Abbott.

The Humble Petition of THOMAS ABBOTT, of Ramsholt, in the County of Suffolk, Mariner.

SHEWETH,

THAT your Petitioner has had a Process issued against him for landing Bandannas and Tobacco clandestinely from the Daphne Letter of Marque, of which Vessel he was at that time Commander; and your Petitioner humbly hopes your Honours will accept his offer of paying the Costs incurred against him in this Prosecution, upon Condition
of

of his pledging himself to give Evidence of the Facts against the other Parties concerned, and in consequence to release him from the said Prosecution.

And your Petitioner, as in duty bound, will ever pray, &c.

February 18th, 1800.

T. ABBOTT.

MAY IT PLEASE YOUR HONOURS,

I crave permission to state the Transactions of the *Daphne* in this Letter, which incloses my humble Petition, and which Facts your Honours' Petitioner is ready to depose, if your Honours should deem him worthy of your Clemency.

London, February 24, 1800.

(Signed) THO. ABBOTT.

In September 1795, the *Daphne* was bought of Mr. William Wenham, of Hastings, in Suffex, and had Letters of Marque obtained for the convenience of coming in and going out of port without question, the having a running Boltsprit, and for carrying of Guns. That the Plan of Smuggling, under the Authority of the Letters of Marque,

was suggested by Mr. Phineas Jacobs, of Norwich, Tobacconist, a fifth part Owner of the Daphne; and the vessel was accordingly fitted out for the especial purpose of Smuggling, under the Authority, and with the Aid of such Letters of Marque. That in October 1795, two Bales of Bandannas were shipped on board the Daphne, at the port of London, for Hambro', by Phineas Jacobs and John Healey, of Bishopsgate Street, London, Tobacconists, (also a fifth part Owner of the Daphne) and which two Bales were re-landed in the said month in Orford River, by the order of the said Phineas Jacobs and John Healey.

That the Daphne sailed for Hambro' for the exprefs design of taking in a cargo of Tobacco and Tobacco Stalk Flower, for which your Petitioner had a Letter of Credit given him by John Healey, to the House of Reignard and Company at Hambro'. That accordingly the Daphne was loaded with Four Hogsheads of Tobacco, and Five Tons of Tobacco Stalk Flower, or Sand, at Hambro', and arrived at Ramsholt Dock, in Woodbridge Haven, in the night of the 18th January 1796, where the said Cargo of Tobacco, &c. was landed, and was there received by Phineas Jacobs, George Cullum (since dead), and Jeremiah Cullum, and sent away by them in ^{Cart} ~~Box~~s prepared for that purpose. That your Petitioner received on the 29th of January 1796, at Ipswich, in Suffolk,

folk, the sum of £ 32. being one fifth of £ 160. for the freight of such Tobacco, &c. from Hambro' to England; and which sum of £ 32. was paid him by Phineas Jacobs and John Healey, who at the same time paid to George Cullum and Jeremiah Cullum, the other two fifth-part Owners of the Daphne, the sum of £ 32. each, as being one fifth of the £ 160. freight. And your Petitioner, at the same time and place, also received from the said Phineas Jacobs and John Healey the further sum of £ 36. 16s. for wages and expences. That from the earnest solicitations of Phineas Jacobs, and by his representations, " that if certain Affidavits were not made, it " would occasion your Petitioner imprisonment " for life;" he has been induced to make these Affidavits, which were exhibited in Doctors Commons, in a cause respecting the Clarissa, a Prize taken by the Daphne; but your Petitioner humbly begs to declare, that the aforementioned account of the Daphne's re-landing the Bandannas, and landing the cargo of Tobacco, &c. is strictly true, and which he is ready to prove.

(Signed)

THO. ABBOTT.

